DOCUMENT RESUME

ED 252 470	SO 016 135
TITLE	Consultation of the U.S. Commission on Civil Rights. (Washington, DC, June 6-7, 1984). Volume 1.
INSTITUTION	Commission on Civil Rights, Washington, D.C.
PUB DATE	7 Jun 84
NOTE	231p.; Some pages contain small type that may not reproduce clearly.
PUB TYPE	Collected Works - Conference Proceedings (021) -- Reports - Descriptive (141)
EDRS PRICE	MF01/PC10 Plus Postage.
DESCRIPTORS	Civil Rights; Employment Practices; *Equal Opportunities (Jobs); Females; Laws; Males; *Salary Wage Differentials; *Sex Discrimination
IDENTIFIERS	*Comparable Worth

ABSTRACT

A result of the United States Commission on Civil Rights consultation on the concept of equal pay for work of comparable value, this publication presents all papers submitted by participants. The papers are: "The Earnings Gap in Historical Perspective" (Claudia Goldin); "Occupational Segregation and the Earnings Gap" (Andrea H. Beller); "Women in the Economy: Perspectives on Gender Inequality" (Solomon William Polachek); "Explanations of Job Segregation and the Sex Gap in Pay" (Paula England); "Comparable Worth at Odds with American Realities" (Brigitte Berger); "Comparable Worth: A Practitioner's View" (Alvin O. Bellak); "Using Job Evaluation to Obtain Pay Equity" (Donald P. Schwab); "Comparable Worth and Realistic Wage Setting" (Herbert E. Northrup); "Identifying Wage Discrimination and Implementing Pay Equity Adjustments" (Ronnie J. Steinberg); "Overview of Pay Initiatives, 1974-1984" (Nina Rothchild); "Race- and Sex-Based Wage Discrimination Is Illegal" (Winn Newman and Christine Owens); "Comparable Worth: Legal Perspectives and Precedents" (Robert E. Williams); "Pay Equity is a Necessary Remedy for Wage Discrimination" (Joy Ann Grune); "An Argument Against Comparable Worth" (June O'Neill); "Comparable Worth as Civil Rights Policy: Potentials for Disaster" (Jeremy Rabkin); and "The Employment and Earnings of Women: The Comparable Worth Debate" (Ray Marshall and Beth Paulin). Abstracts of the papers are provided. (RM)

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Comparable Worth: Issue for the 80's

A Consultation of the U.S. Commission on Civil Rights

Volume 1
June 6-7, 1984

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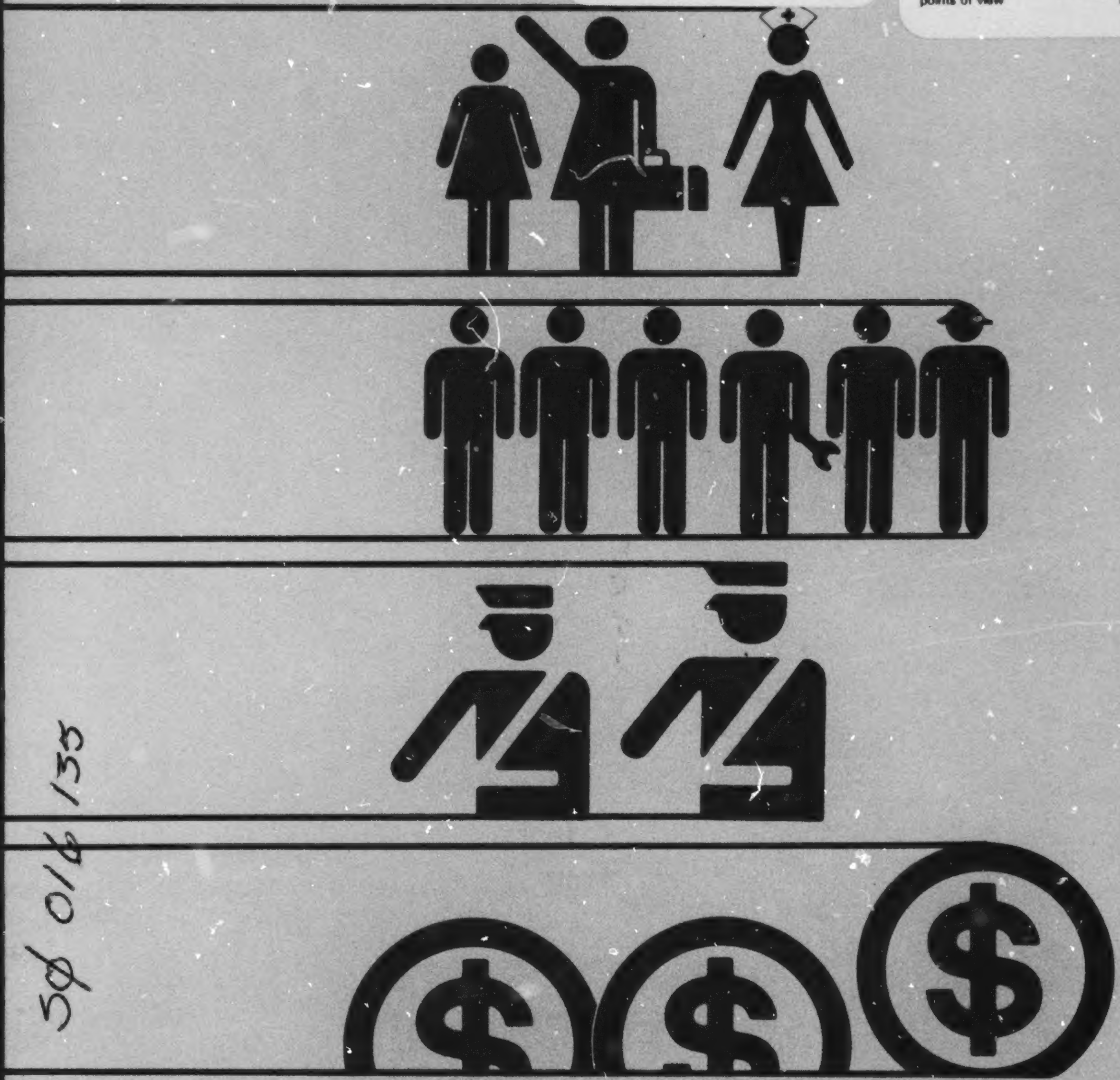

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- Study and collect information concerning legal developments constituting discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice;
- Appraise Federal laws and policies with respect to discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice;
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PREFACE

There is a significant history of sex discrimination in employment in this country. Although women have always worked, women in the labor market have generally worked in jobs that are predominantly "female." They have done so for a variety of reasons.

Since 1940 the number of women entering the labor market has risen dramatically. Federal laws have eliminated many of the barriers to employment women once faced. In addition, the level of women's educational attainment has increased significantly in the recent past. Yet many women continue to enter and remain in sex-segregated occupations. Women's earnings continue to lag behind the earnings of men.

Against this backdrop the concept of equal pay for work of comparable value has drawn much attention. Comparable worth is viewed by many as a major civil rights issue of the 1980s. Although most would agree that occupational segregation and a wage gap exist, there is a wide range of views as to the causes and appropriate remedies.

In an effort to highlight the issues relating to comparable worth, the United States Commission on Civil Rights sponsored a consultation on June 6–7, 1984, in Washington, D.C. The purpose of the consultation was to provide the Commission with the opportunity to hear from experts in the area and to engage in discussions with them. This provided the Commission with a forum for an exchange of views on comparable worth.

This publication compiles all papers submitted by the consultation participants. The transcript of the proceedings will be published as a second volume.

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ACKNOWLEDGMENTS

Preparations for the consultation were directed by Michael C. McGoings, Assistant General Counsel, with the assistance of Derryl Stewart King, and Karen M. Primack. Joel C. Mandelman, Deputy General Counsel, also participated in preparations for the consultation.

Appreciation is extended to Evelyn A. Avant, Lorraine W. Jackson, and Rhonda D. Sowers for their support and assistance.

The staff of the Publications Management Division prepared this document for publication.

Overall supervisory responsibility for the project rested with Mark R. Disler, General Counsel.

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FACTUAL OVERVIEW

Women in the Work Force

The Earnings Gap in Historical Perspective

By Claudia Goldin*

> When I was asked to prepare a paper. . .upon the alleged differences in the wages paid to men and to women for similar work, I felt very reluctant to undertake the task. . . .The problem is apparently one of great complexity, and no simple or universal solution of it can be offered.
>
> Summerizing roughly. . .it may be said that women's inferiority of remuneration for equivalent work is, where it exists, the direct or indirect result, to a very large extent, of their past subjection; and that, dependent as it now mainly is upon the influence of custom and public opinion, it might be largely removed by education and combination among women themselves.
>
> Sidney Webb, "On the Alleged Differences of Wages. . ." (1891).

> Should men and women receive equal pay for equal work? This question is in a peculiar degree perplexed by difficulties that are characteristic of economic science.
>
> In short we must understand with the term "equal work" some clause importing equal freedom in the choice of work. There are thus presented two attributes: equality of utility to the employer as tested by the pecuniary value of the result, and equality of disutility to the employee as tested by his freedom to choose his employment. These two attributes will concur in a regime of perfect competition.
>
> F.Y. Edgeworth, "Equal Pay to Men and Women for Equal Work" (1922).

Introduction

This paper concerns long-run changes in the relative earnings of females to males and in the variables that might determine this ratio. The historical record will be examined to see if changes in technology, work organization, educational standards, and life-cycle labor force participation have altered the relative earnings of females to males. The current ratio of female to male earnings seems quite low to many, but what was this ratio a century ago and how did it change over time?

It is often thought that economic progress will eventually eliminate all differences between the earnings of females and males. The labor market's rewards to strength and dexterity would be minimized by the adoption of machinery and the replacement of inanimate power for human physical labor. Formal education, supplied by the employee, would replace on-the-job training that might be denied individuals who appear to have high labor market turnover. As more women enter the labor market, their experience in jobs and with firms will approach that of the male labor force. Intelligence and skill, not physical and gender differences, will eventually determine the wages paid in the labor market. Are historical data consistent with this interpretation?

The implicit framework in this analysis is one of an evolving market in which skills, education, strength, and job experience are differentially rewarded across occupations. The economy is initially an agricultural one, in which the type of crop is a major determinant of the relative productivity of females, males, and children. Females and the young can be quite effectively employed in crops such as cotton, rice, and tobacco, while they are at a disadvantage in others, such as grains. Home production of manufactured goods and crafts coexists with agriculture, and the close association of the home and the miniaturized factory encourages all family members to acquire various skills.

---

* Associate Professor of Economics, University of Pennsylvania.

The mechanization of factory production affects the relative earnings of females in a variety of ways. The more intricate division of labor and replacement of inanimate power for human strength favors females and serves to raise their relative productivity. But the separation of home and market increases the costs of acquiring various skills and puts decisionmaking more in the control of the employer and less in the hands of the family and individual.[1] Thus the initial adoption of the factory system would be expected to increase the relative earnings of females, especially in the agricultural areas in which they were initially at a disadvantage. But certain types of industrial skills might now be acquired only on the job, and in these we would exepct women, whose labor force attachment was low, to gain relatively less.

The widening of the economic marketplace and further introduction of labor-saving technological advances would lead to an increased demand for clerical and professional laborers. The rise of the tertiary sector is a common feature in the development of all economies, and it is generally the case that the increase in the clerical trades preceded that in the professions. With the mechanization of the office, clerical employment enabled workers to enter a trade in which there was little learning on the job, in which the pay was relatively good, and for which there was a prerequisite of some moderate amount of education. In the first three decades of this century, the attributes of these positions were attractive to young women whose labor market attachment was relatively weak. The shift in occupational structure toward clerical jobs would be expected to raise the relative wage of females. The increase in professional jobs, however, might have an opposite effect, at least until women greatly expanded their life-cycle labor force participation. Professional jobs combined the attributes of both craft and clerical positions; they required a high level of education, but also rewarded job experience. A substantial amount of knowledge had to be brought to the job, but much more was acquired in the marketplace.

There are complex interrelationships among technology, economic development, and the relative earnings of females to males, and isolating each of the causal factors in a simultaneously determined model would be a major accomplishment. Increases in education, for example, may have resulted from forces outside the labor market, or may have been in response to heightened demands for skilled workers. Similarly, changes in the life-cycle labor force participation of women are probably related to the options available for them in the labor market. It may not be an accident that women first began to increase their labor market involvement with the initial rise of the clerical sector and have entered the labor force in even larger numbers after the shift of male workers into the professions. Despite the absence of an explicit formulation of the underlying structure, this framework is a useful one in discussing the relative earnings of females to males and the evolution of contemporary issues regarding gender in the labor market.

The debate over the doctrine of comparable worth did not begin with Title VII and *Gunther*, but as the above quotations suggest, the doctrine was enunciated a century ago by the British Fabian Sidney Webb and was reformulated 30 years later in modern form by Edgeworth, just after World War I. The list of economists involved in this debate is impressive, with J.S. Mill a leading figure, chronologically as well as intellectually, later joined by Bowley, Cassel, Edgeworth, Rowntree, S. Webb, Fawcett, Rathbone, and Beatrice Webb, the last being three women.

The British concern with gender differences in wages can be traced to a special combination of factors. British economic thought with regard to the economic and social position of women was deeply influenced by J.S. Mill, a brilliant economist and philosopher who had personal and intellectual ties to those committed to equality between the sexes (he married the utopian Godwin's daughter). Edgeworth was more concerned with allocative efficiency in the labor market than with egalitarianism.

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[1] The implications of the separation of home and market will not be discussed in this paper. Women held numerous atypical professions and positions in Philadelphia in the 1790s, but were far less frequently found in them in the 19th century. The increased separation of home and market appears to be the reason for the decline of women in these trades (Goldin, 1983a).

Table 1
Female Labor Force Participation Rates by Marital Status, Race, and Nativity, 1890 to 1980

	≥ 16 years old				≥ 15 years old			≥ 16 yrs.	
	1890	1900[a]	1920	1930	1940	1950	1960	1970	1980
Total	18.9	20.6	23.7	24.8	25.8	29.0	34.5	42.6	
Total[b]	19.0								55.5
Married	4.6	5.6	9.0	11.7	13.8	21.6	30.7	40.8	
Single	40.5	43.5	46.4	50.5	45.5	46.3	42.9	53.0	
White	16.3	17.9	21.6	23.7	24.5	28.1	33.7	41.9	
Married	2.5	3.2	6.5	9.8	12.5	20.7	29.8	39.7	49.3
Single	38.4	41.5	45.0	48.7	45.9	47.5	43.9	54.5	64.2
Nonwhite	39.7	43.2	43.1	43.3	37.6	37.1	41.7	48.5	
Married	22.5	26.0	32.5	33.2	27.3	31.8	40.6	52.5	59.0
Single	59.5	60.5	58.8	52.1	41.9	36.1	35.8	43.6	49.4
Foreign Born	19.8			[illegible]					
Married	3.0			8.5					
Single	70.8			73.8					

[a] The 1910 labor force figures have been omitted because of the overcount of the agricultural labor force in that year.
[b] Adjusted for unemployment and calculated for 15- to 65-year-olds for 1890 and 16- to 65-year-olds for 1980.

Source: 1890 to 1970, Goldin (1977). The 1980 data are from *Labor Force Statistics Derived from the Current Population Survey* (1982).

Equality of treatment in the labor market had its roots in the laissez faire ideology of Adam Smith. British trade unions and discriminatory social norms and customs were impediments, as costly to an economy as protectionism and monopolies. The British Socialists shared these concerns, but for perhaps more lofty reasons.

Across the Atlantic at the turn of this century, there was considerably less interest in equal pay, although it became an issue during the First World War and was earlier supported by progressive economists, such as Richard T. Ely. British commentators explained this American apathy by its general equality of wages between men and women, produced by weak trade unions and less rigid social customs.[2]

Labor Force Participation Rates

It is instructive to review the historical record regarding the labor market involvement of women in the United States before examining the earnings data. Labor force participation rates for women have varied markedly by age, marital status, nativity, and race. Table 1 presents labor force participation rate data by race and marital status for 1890 to 1980, and table 2 further stratifies these data by age, nativity, and marital status for white women. The starting point for these data, 1890, is dictated by the availability of labor force statistics in published format.

These data demonstrate that labor market involvement of white married women was very low until well into the 20th century, while that for single women increased steadily over time. The remarkable variation across geographic areas in the participation rates of single women is concealed in the aggregate data however. Throughout the 19th century, the market participation of single women expanded with the increase in manufacturing activi-

---

[2] "Custom is presumably less powerful in regulating wages in the United States than in England, and in the United States the proportion which the average earnings of women in manufacturing industry bear to those of men, is. . .considerably higher than in [Britain]. . . .In the United States, on the other hand, where competition has perhaps freer play, women typewriters receive wages equal to men typewriters" (p. 649).

Table 2

Female Labor Force Participation 1890 to 1980 by Age, Marital Status, and Nativity for White Women in the Entire United States

Never married (single)

Age	15–24			25–34		
Year	NN	NF	F	NN	NF	F
1890	24.0	41.9	71.1	42.3	55.7	78.9
1900	27.5	45.7	70.6	47.0	59.1	81.5
1910	n.a.	n.a.	n.a.	n.a.	n.a.	n.a
1920	38.8	57.8	70.0	(65.4)	(64.9)	(84.8)
	NN + NF			NN + NF		
1930	41.2		71.4	77.6		94.1
	NN + NF + F			NN + NF + F		
1940		40.8			79.4	
1950		42.9			80.6	
1960		40.0			81.8	
1970						
1980						

Currently married

Age	15–24			25–34		
1890	2.5	3.1	4.7	2.4	2.6	3.4
1900	2.7	3.1	4.4	3.0	3.2	3.4
1910	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
1920	7.7	9.2	9.8	6.6	6.7	8.3
1930	13.2		14.9	11.5		11.6
1940		14.7			16.7	
1950		24.9			21.0	
1960		30.0			26.7	
1970		44.1			36.2	
1980						

Age	35–44			45–54				55–64		
1890	2.3	2.6	3.1	2.1	2.5	2.5		1.7	2.2	1.9
1900	3.3	3.4	3.3	2.4	3.0	2.8		1.9	2.3	2.0
1910										
1920	6.5	6.3	8.1				(5.0)	(4.7)	(5.0)	
1930	9.8		10.0	8.2		6.5		5.4		4.1
1940		13.8			10.1				6.4	
1950		25.3			22.2				12.6	
1960		35.4			38.6				24.6	
1970		44.4			46.7				34.1	

Table 2 cont.

1980						

Widowed and divorced

Age	15–24			25–34		
1890	32.6	40.5	51.3	42.2	46.1	53.6
1900	29.3	37.8	47.5	51.8	58.2	53.6
1910	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
1920	41.1	81.2*	31.1	(56.0)	(93.3)	(54.9)
1930	56.4		65.7	71.9		(59.5)
1940		49.3			63.2	
1950		52.0			60.9	
1960		49.5			60.7	
1970						
1980						

Age	35–44			45–54				55–64		
1890	42.4	40.6	42.4	33.4	28.7	27.8		22.6	20.4	18.0
1900	54.0	53.2	53.8	42.0	36.5	31.8		26.8	23.1	18.9
1910										
1920	(56.0)	(93.3)	(54.9)			(17.8)	(28.9)	(15.4)		
1930	60.2		(59.5)	47.2		38.4		26.9		18.9
1940		59.3			44.1				25.2	
1950		65.2			55.7				35.4	
1960		68.4			57.1				47.8	
1970										
1980										

Notes:
NN = Native-born white with native-born white parents.
NF = Native-born white with at least one foreign-born parent.
F = Foreign born.

Single includes unknown marital status for 1890, 1900, 1920.
Widowed and divorced includes only widowed for 1890 and 1900; unknown and widowed and divorced for 1920 and 1930; and widowed and divorced and other for 1940, 1950, and 1960.

1920 figures in parentheses refer to 25–44-year-olds for single and married groups; 1920 figures in parentheses for widowed and divorced refer to 25–44-year-olds in 24–35 and 35–44 categories and 45+ in 45–54 and 55–64 categories.

1930 figures in parentheses for widowed and divorced refer to 25–44-year-olds in 24–35 and 35–44 categories.
Married: spouse present for 1940–1980.

Sources: Derived from U.S. Bureau of the Census, Population Statistics.

*The NF figures derived from the 1920 census appear too high and may be the result of the statistical procedure employed.

ty, and in the industrial counties of the Northeast, it rose even as early as 1830 to 20th century levels.

The trends for single women are in stark contrast to those for married women. Participation rates of married women expanded after the 1920s, but not to any great extent before. But if the change just after 1920 is an expansion, that beginning with 1950 must be termed a virtual explosion in employment, first for women over age 35, later for those under 35 years.

Data identical to those in table 2 but arrayed by birth cohort are presented in figure 1. When arranged in this manner, the increase in participation rates over time is reflected in the average labor market life-cycle experiences of adult women. Figure 1 gives labor force participation rates for white women within their married years.[3] It is clear that for every cohort of women, participation rates rose with age, and the younger cohorts of women had progressively increased participation rates. Some cohorts, such as those born around 1906 to 1915 and 1946 to 1955, had larger increases in participation rates than those preceding them. But all cohorts experienced similar changes across their own life cycles and had participation rates that were higher than those before. These data suggest that each cohort of women may have had difficulty predicting their own labor force participation later in life, and that each cohort when young may have been misled by extrapolating from the experiences of their elders what their own life cycles would be. These suggestive remarks are explored further in the section on job market expectations.

Earnings of Females Relative to Those of Males

The Agricultural and Manufacturing Sectors, 1820 to 1890

The story of relative earnings can begin almost two centuries ago with data from the manufacturing sector. Earnings ratios for the entire economy, however, can be constructed only for the last century and with caution for much of the pre-1950 period.

The relative wage of females to males was fairly low in the Northeastern States prior to industrialization, but rose quickly wherever manufacturing activity spread.[4] Around 1815 the ratio of female to male wages in agriculture was 0.288 and rose to about 0.303 to 0.371 among manufacturing establishments at the inception of industrialization in the United States in 1820. By 1832 the average ratio in manufacturing was 0.411 to 0.441, and it continued to rise to just over 0.50 in 1850 in the Northeastern States. Nationwide the ratio rose until about 1930, when it reached its present-day level of about 0.58 (see figure 2). Why the ratio was virtually unchanged for the last 50 years is somewhat of a mystery, but the cause of the earlier rapid and steady increase in relative wages seems clear.

The agricultural sector of the Northeast was primarily a grain growing area and its farmwork was more arduous than that in the cotton growing areas of the South. Manufacturing interests in the Northeast took full advantage of the large supply of female and child labor in their use of machinery and the intricate division of labor. The work was learned quickly and was done by individuals of limited strength. As early as 1832 fully 40 percent of the manufacturing labor force in the Northeast was composed of females and children, a figure that began to decline soon thereafter. In the American South, where women and children were relatively more productive in cotton than they were in the grains of the North, industrial development was far less extensive and used considerably less female and child labor. The ratio of female to male wages in southern agriculture was 0.58 among free workers in the post-bellum period, a figure that is nearly equal to that across all workers today.[5]

The immediate and widespread employment of women in manufacturing establishments during this period does not imply that their occupations were equal to those of men. Occupations were almost always segregated by sex, and when they were not, incentive pay, generally piece-rate payment, was often used.

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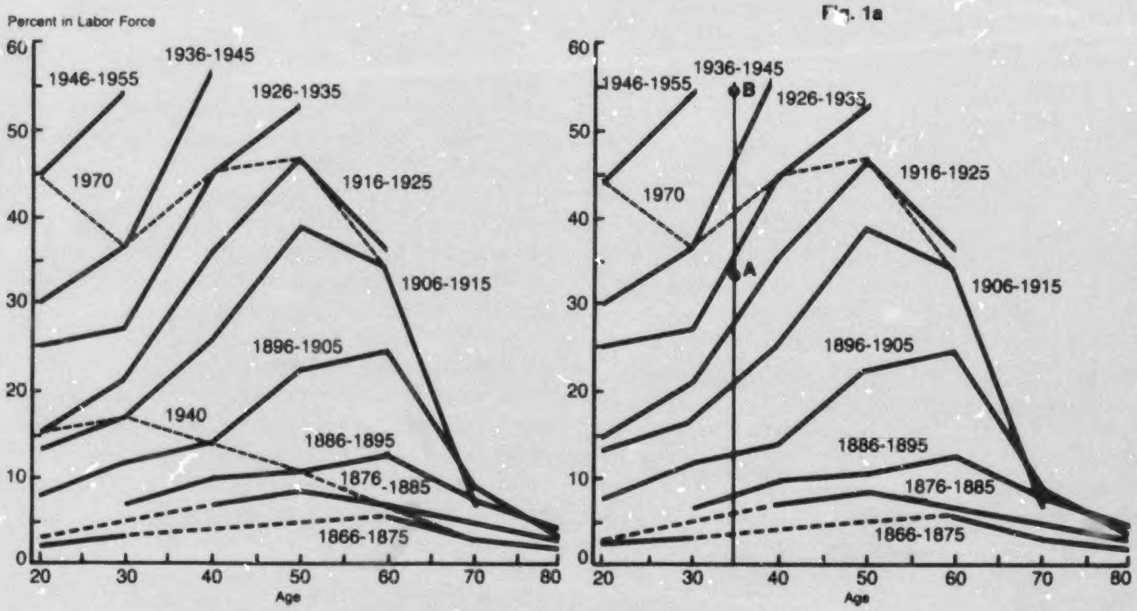
[3] Goldin (1983) details various considerations regarding this figure. Among the most important are: (1) there was an increase in urbanization during the period and holding it constant reduces the increase in labor force participation of the cohorts; (2) individuals enter the graph when they marry and exit when they are widowed or divorced; therefore, the graph will not be accurate if these transitions are correlated with labor force participation; and (3) because individuals enter the graph when they are married, it must be recognized that labor force participation for these cohorts when single was considerably higher than the value at 20 years old in the figure.

[4] Goldin and Sokoloff, 1982.

[5] Goldin and Sokoloff, 1984.

FIGURE 1

Labor Force Participation Rates of Cohorts of White, Married Women, Born 1866 to 1955: Entire United States



Dashed lines denote missing data. Data for 1890 to 1920 are for native-born women with native-born parents. Dotted lines are cross sections.
Source: Goldin (1983), derived from population census data. Data appendix on request from author.

Earnings Ratios in the Aggregate and for Six Sectors, 1890 to 1980

The ratio of female to male earnings within the manufacturing sector rose rapidly from 1820 to 1850, then at a somewhat slower pace from 1850 to 1930, after which it reached a plateau (also see the data in figure 2). It should be noted that data for 1914 to 1936 from Beney (1936) indicate that the ratio for hourly wages in manufacturing was more than 10 percent higher than that for weekly or annual earnings because of the smaller number of hours per week worked by women in manufacturing.[*]

The data underlying the estimates of female and male earnings in manufacturing are extensive, and the estimates are relatively robust. But manufacturing jobs hardly accounted for one-third of all female employees at any time over the last century. It becomes necessary, therefore, to construct earnings data for a wider range of occupations, and table 3 presents such estimates.

Part A of table 3 lists the earnings data for each of six occupational groups for 3 years, 1890, 1930, and 1970. The weakest estimates in this matrix are those for salesworkers in 1890 and 1930, which use the data for the clerical sector. But the proportions in this group were never higher than 7 percent for males or females. Only the farm sector presents additional problems. For all the years considered, the common laborer wage was used as a proxy for earnings in the farm sector. The actual farm laborer wage was considerably below that for unskilled nonfarm labor across the 80-year period, but farm laborer wages do not include the returns to farmowners.

The earnings data in table 3 were constructed from various underlying series, and where there was a choice in constructing the earnings matrix, a

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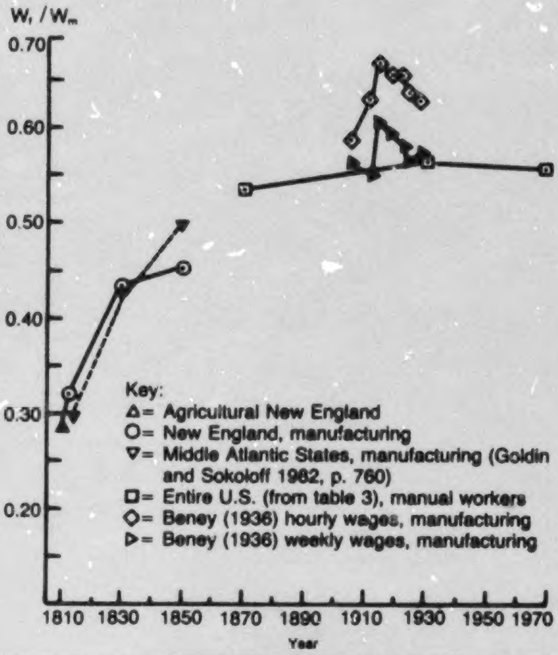
[*] O'Neill, 1983, p. 9, reports similar results for more recent data.

FIGURE 2
Relative Wages for Females to Males in Manufacturing (Operatives Only and Across All Occupations)



conscious decision was made to bias the decomposition of the change in the earnings ratio toward changes in occupational structure. Despite this built-in bias, the decomposition, to be detailed below, indicates that changes in relative wages, both within occupations by gender and across occupations for males alone, dominate the movement in the aggregate earnings ratio.

The aggregate earnings ratio is given in part C (1b), where line (1) gives the actual ratio computed from the data in part A. The aggregate earnings ratio rose from 0.457 in 1890 to 0.551 in 1930 and to 0.603 in 1970,[7] that is, by at least 32 percent over the course of the last century. The increase would have been greater had the matrix incorporated the lower estimate of the farm wage in 1970 and had the data been extended to 1980. The earnings ratio rose from 1970 to 1980, but had been relatively constant from 1950 to 1970 and had even declined in the early 1950s.[8]

Explaining Changes in the Earnings Ratio, 1890 to 1980

What acccounts for the increase in aggregate relative earnings of females to males across the 20th century? There are two sets of causes, proximate and underlying. The proximate causes will be limited here to five separate effects: the change in the structure of jobs for males and for females, the change in the structure of earnings for males and females, and the change in the ratio of male to female earnings. These five effects will help isolate the more complicated underlying causes.

Part B of table 3 gives the ratio of male to female earnings in each of the six occupational groups for the 3 benchmark years.[9] In almost all of the groups the ratio rises over time, more prominently in the professional and clerical group. The increase in the relative earnings of females to males in the clerical group is most apparent in the first 40-year period, when women moved in increasing numbers into clerical jobs. The earnings gap between men and women narrowed within occupations over that period, while the earnings gap between the unskilled and the skilled in general did not narrow very much. The skill premium for both men and women declined most during the second 40-year period being considered. From 1930 to 1970 male workers flocked to professional jobs, and earnings in these positions fell relative to those in lesser skilled trades. The difference in the timing of the two changes in relative earnings is related to changes in education that will be detailed in the next section.

The matrix in part C (1b, lines 2–4) of table 3 gives the ratio of female to male earnings that would have existed had the structure of jobs equalled that in year *j*, but the set of male and female wage rates equalled that in the particular year given. The diagonal of this matrix gives the actual ratio of the earnings, also given in line 1. The off-diagonal elements are hypothetical earnings ratios that willl help isolate the proximate determinants of the increase in the earnings ratio.

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[7] The year 1970 is used as the end point because of the readily available occupational percentages for that year from the 1970 census. The aggregate data for the 1980s from the Current Population Survey indicate that the ratio has risen somewhat over the last quinquennia (O'Neill, 1983).

[8] Lloyd and Niemi, 1979.

[9] That in the sales category should be ignored until better data for this sector are located.

Table 3

Earnings and Occupational Distributions of the Female and Male Labor Forces, 1890, 1930, and 1970: Entire United States

Part A: Full-Time Earnings and Occupational Distributions

	1890				1930				1970			
	Male		Female		Male		Female		Male		Female	
	$	%	$	%	$	%	$	%	$	%	$	%
Profes.	1,500	10.2	400	9.6	4,000	13.6	1,445	16.5	12,250	24.9	8,700	18.9
Clerical	943	2.8	459	4.0	1,566	5.5	1,105	20.9	8,750	7.6	6,000	34.5
Sales	943	4.6	459	4.3	1,566	6.1	1,105	6.8	10,150	6.8	4,450	7.4
Manual	498	37.6	268	27.7	1,523	45.2	868	19.8	8,891	48.1	4,950	17.9
Craft, superv.		(12.6)		(1.4)		(16.2)		(1.0)		(21.3)		(1.8)
Operative		(25.0)		(26.3)		(29.0)		(18.8)		(26.8)		(16.1)
Service	453	3.1	240	35.5	1,220	4.8	730	27.5	7,100	8.2	3,965	20.5
Farm	453	41.7	240	19.0	1,220	24.8	730	8.4	7,050	4.5	4,151	0.8

Part B: The Ratio of Female to Male Earnings Within Each Sector (r_i)

Profes.	0.267	0.361	0.710
Clerical	0.487	0.706	0.686
Sales	0.487	0.706	0.438
Manual	0.538	0.570	0.557
Service	0.530	0.598	0.558
Farm	0.530	0.598	0.589

Part C: Computing and Decomposing the Change in the Ratio of Female to Male Earnings

(1) Using the Share and the Wage in Sector i for Year j

(a) Female and Male Earnings in Current Dollars

(ϕ = share or %, and w = earnings or $)

$\Sigma\ \phi_i W_i$	613	280	1775	978	9581	5776
$\Sigma\ \phi_i W_{1890}$	613	280	673	331	806	366
$\Sigma\ \phi_i W_{1930}$	1643	869	1775	978	2109	1047
$\Sigma\ \phi_i W_{1970}$	8464	4834	8874	5590	9581	5776

(b) Ratios of Female to Male Earnings, Using the Share and the Wage in Sector i for Year j

(1) $[W_{fi}/W_{mi}]$	0.457	0.551	0.603
(2) $[W_f/W_m]_{1890}$	0.457	0.492	0.454
(3) $[W_f/W_m]_{1930}$	0.529	0.551	0.496
(4) $[W_f/W_m]_{1970}$	0.571	0.630	0.603

(2) Using the Share and the Ratio of Female to Male Earnings (r_i) in Sector i for Year j and the Male Wage in Sector i for 1970

(a) Male and Female Earnings, Current Dollars

$\Sigma\ \phi_i W_{mi}\Gamma_{1890}$	8464	4043	8874	4210	9581	4096
$\Sigma\ \phi_i W_{mi}\Gamma_{1930}$	8464	4692	8874	5033	9581	5309
$\Sigma\ \phi_i W_{mi}\Gamma_{1970}$	8464	4834	8874	5590	9581	5776

Table 3 cont.

(b) Ratios of Female to Male Earnings, Using the Share and the Male Wage in Sector i for Year j and the Ratio of Female to Male Earnings in Sector i for 1970

(1)	0.476	0.474	0.428
(2)	0.554	0.567	0.554
(3)	0.571	0.630	0.603

Notes:
OCCUPATIONAL DISTRIBUTION.
Historical Statistics, Series D 182–232, pp. 139–40. The 1900 occupational distribution was used for 1890. The professional category includes professional, technical, and kindred workers, and managers, officials and proprietors (lines 218 and 219).
EARNINGS. All earnings are annual, full-time, and are in current dollars. The 1890 data are for males > 16 years old and females > 15 years old for approximate consistency over time.
1890, Male, Professional: *Eleventh Annual Report of the Commissioner of Labor, 1895/96: Work and Wages of Men, Women, and Children* (Washington, D.C., 1897), indicates male librarians earned $35/week in New York City; *Historical Statistics*, Series D-793, p. 168, gives $794 for the annual earnings of a minister; army officers in 1898 earned $2,101, Series D-922, p. 176. An estimate of $1,500 was based on these data and the observation from 1930 that the ratio of full-time earnings in for manufacturing jobs was about 40 percent that in professional occupations. The ratio in 1890 must have been greater (Lindert and Williamson, 1980).
Clerical: *Report on Manufacturing Industries: 1890*, Part II (1895), p. 10, yields data for urban clerical workers excluding salaried personnel.
Manufacturing: Rotella (1981), Appendix B, pp. 197-212.
Service and Farm: Lebergott (1964) common laborer's wage for 1890 × 310 days.

1890, Female, Professional: *Historical Statistics*, Series D 760, 763, p. 167, for 1900.
Clerical: Rotella (1981), Appendix B., pp. 197-212.
Manufacturing: *Report on Manufacturing Industries: 1890*, Part I (1895).
Service and Farm: *Historical Statistics*, Series D 758, p. 167, for 1900.

1930, Male, Professional: *Historical Statistics*, Series D 914–16, p. 176 gives annual net income for doctors, lawyers, and dentists of $5,224, $5,534, $4,267 respectively.
Clerical and Sales: Rotella (1981), Appendix B, pp. 197-212.
Manufacturing: *Historical Statistics*, Series D-835, p. 172, gives a range of $1,532–$1,593. The figure of $1,523 conforms to a ratio of 0.57 for the female wage in manufacturing divided by the male, as in M. Beney, *Wages, Hours, and Employment in the U.S., 1914–1936*, National Industrial Conference Board Study No. 229 (1936).
Service and Farm: *Historical Statistics*, Series D 841, p. 172, for 1929 × 50 weeks.
1930, Females, Professional: *Historical Statistics*, Series D 763, p. 167, for 1929.
Clerical and Manufacturing: Rotella (1981), Appendix B, pp. 197–212.
Service and Farm: *Historical Statistics*, Series D 758, p. 167, for 1929.

1970, Male and Female, All Sectors: U.S. Department of Labor, Bureau of Labor Statistics, Bulletin #2096, *Labor Force Statistics Derived From the Current Population Survey: A Databook, Volume I*, (September 1982), Table C-23, p. 732. Median, full-time, weekly earnings for each sex-occupational group. Manual for males and service for females are weighted averages of subgroupings. Annual wages are weekly × 50 weeks. All data are for 1973. The farm figure for females was extrapolated from 1975 on the figure for all workers. The nonfarm laborer figure was used for the male farm figure; farm laborers earned $4,950.

The numbers read across the matrix on each line hold the wage rates constant at some particular date, while the numbers read down each column hold the structure of occupations for males and females constant at some particular date. Note that most of the change in the ratio comes from changing the wage rates and not from changing the structure of occupations.

This is not to say that the structure of occupations did not change. It changed considerably and in important ways. In 1890 fully 42 percent of the male labor force was employed in the agricultural sector and 36 percent of the female labor force was employed in the service sector, primarily as domestics. But by 1970 fewer than 5 percent of the male labor force was in agriculture and 21 percent of the female labor force was in the service sector. This movement of males and females out of relatively low-paid positions into higher paid ones was an important feature of the evolving labor force, but taken together these changes had little net effect on relative earnings of women. The structure of wage rates was of paramount importance.

Part C (2) further subdivides the change in earnings into the change in the male wage and the change in the relative earnings of females for each occupation *(r)*. Another matrix (2b) is formed, in which only one of the ratios is an actual one, that for 1970, 0.603. The other ratios are constructed under the assumptions that the array of male wages by occupation is given by the 1970 data, but that occupational structure and the relative wage for females within each occupation vary over time.

The results of this exercise both confirm and extend the earlier findings. Holding the male at the 1970 level and the ratio of female to male wages within occupations at any of the levels means that the occupational structure variable will be determining changes over time. When the relative wages are at the 1890 level, relative earnings, rather than rising over time, actually decline from 0.476 to 0.428; they rise and then decline using the 1930 and 1970 relative wages.

Read another way, relative earnings rise when varying the relative earnings within each occupation and holding the structure of occupations constant at any of the three levels and the male wage at the 1970 level. Thus, the increase in relative earnings of females within each of the large occupational groupings was the primary factor in increasing the overall relative wage across the past century. These findings are robust to the choice of the year for the male wage, although table 3, part C, gives the results only for the 1970 wage levels.

The structure of occupations becomes important only when the question asked is substantially altered. Had the occupational distribution of females stayed constant at its 1890 level but that of males changed, the relative wage would have gone from 0.457 in 1890 to 0.505 in 1970. Alternatively, had the occupational distribution of males remained fixed at the 1890 level but that of females changed, relative wages would have been 0.457 in 1890 and 0.682 in 1970. Although these ratios change in different ways than the actual ones, the differences are not as striking as might have been expected given the nature of the counterfactual. Holding either the male or female occupational structure at the 1890 level is equivalent to having either the male or female labor force retain its heavily unskilled 19th century character. But even under this rather extreme assumption, the ratios in the first instance do increase and in the second do not overshoot the actual one by very much.

Yet another transformation would have the female occupational distribution equal that of the males and change in precisely the same way. Under this assumption the relative wage would have been 0.458 in 1890, but 0.607 in 1970 or virtually unchanged from the actual levels. The difference in the distribution of men and women across these rather encompassing six categories was not a major factor in altering relative earnings.

This analysis of the approximate determinants of the change in the earnings ratio indicates that relative earnings within occupations and the overall skill differential across occupations should be the variables of interest. Occupational change is important only in terms of a somewhat different set of questions or, perhaps, if the occupational categories were finer.

The underlying reasons for the changes in the wage structure are to be found in changes in education and in immigration. Economists have for some time recognized that the overall skill differential in the economy declined around 1940,[10] and they have sought the reasons for these changes in the close of immigration and the increase in educational attainment. Earnings ratios for male workers in 1970 contain a considerably smaller skill premium than do those for the other 2 years.[11] This reduction in the skill premium lowered the relative earnings males would have had in 1970 given their relative increase in skilled occupations over the 20th century.

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[10] Keat, 1962; Williamson and Lindert, 1981.

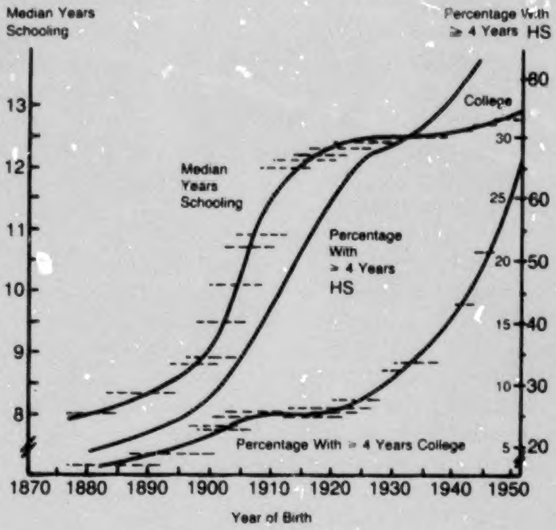
But the change in the skill differential was only one factor altering the structure of earnings across this century. Yet another was the increase in the relative earnings of females to males within occupations that women began to dominate early in this century. Relative earnings in the clerical sector rose markedly between 1890 and 1930, while the percentage of women in this sector expanded greatly. The combination of these two factors served to increase the ratio of female to male earnings to a considerable degree. The reason for this increase in relative earnings is to be found in the rapid increase in high school graduates and commercial degrees in the period just following World War I.

Figure 3 documents the expansion in education among females for cohorts born from 1866 to 1955. There are two important periods of rapid increase in educational attainment. The first is the increase in high school attendance and graduation with the cohorts born around 1900 and leaving high school from about 1915 to 1928. The second is the increase in college graduates beginning with the cohorts born around 1945.

The first large increase in educational attainment, that of high school, enabled young women to enter a new set of occupations, those in the clerical field, rather than those in manufacturing or sales.[12] At the same time, clerical occupations attracted women who were not yet in the labor force and thus led to an expansion in the labor force participation rate. Jobs in manufacturing paid less than those in clerical work, particularly at entry level. But manufacturing positions offered the opportunity for advancement in wages with time on the job, particularly in craft positions. These positions were rarely occupied by females, in part because the limited number of years women stayed on the job in manufacturing made such investments too costly for them, their families, and their employers. The clerical labor force enabled females to gain entry to an occupation in which formal education substituted rather well for on-the-job training and was even a prerequisite for job entry. The 19th century male amanuensis was rapidly replaced by female clerical workers, and relative wages for females to males in clerical work rose substantially.

FIGURE 3

Educational Attainment for Cohorts of White Women Born 1876-1952



Horizontal lines indicate the width of the birth cohorts for which data on educational attainment are given.

Source: U.S. Bureau of the Census, *Current Population Reports*, Series P-20 for years 1940, 1947, 1962, 1966, 1968, 1970, 1972, 1974, 1977. Data appendix on request from author.

Figure 3 does not give the change in educational attainment for males, but the graphs for high attainment would look similar, although not as extreme. The increase in educational attainment at the college level, however, was greater for males than for females, and it was this increase in education, combined with the close of immigration in the 1920s, that led to the reduction in the overall skill premium after the 1940s.

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[11] The ratio of professional to manual workers' earnings for males is 3.01 in 1890, 2.55 in 1930, and 1.38 in 1970 from table 3.

[12] See Goldin, 1984, for a more complete analysis.

Occupational Segregation

Sidney Webb, in 1891, had cited a difficulty, common today as well, in making wage rate comparisons for men and women in task or time manufacturing jobs. It was "the impossibility of discovering any but a very few instances in which [they] do precisely similar work, in the same place and at the same epoch" (p. 638).

The data in table 3 are too highly aggregated to demonstrate the degree to which occupations have been segregated by sex. It is clear that women have always been relatively more numerous in clerical occupations than are men and that men have always been more frequently found in craft and supervisory positions than are women. Gross (1968) has shown that the aggregate level of segregation by sex across about 350 occupations has remained remarkably constant across the 20th century and that fully two-thirds of all women or all men would have to change occupations to eliminate all distinctions by gender.

With this degree of occupational segregation, the occupational distribution must be of major importance to the wage ratio if jobs are narrowly defined. The large sectors used in table 3 disguise differences within groups. But the long-run changes sought here are to be found more meaningfully in broad, rather than narrow, definitions of occupation.

Explaining the Ratio of Female to Male Earnings

The focus thus far has been on the proximate determinants of the ratio of female to male earnings and the trends in the general occupational structure in the economy. But what of the absolute level of the ratio? Why have women earned substantially less than men in the past and why do they continue to earn less than men?

Human capital theory suggests many variables that determine the value of an individual's services to the labor market. Those correlated with gender, such as labor market experience—on a job, with a firm, in an industry—education, strength, dexterity, hours of work, home responsibilities, home-specific human capital, and labor market expectations, will be of most importance here.

Those who embrace the doctrine of comparable worth eschew these considerations and replace them with the characteristics of the job. If women are barred from jobs by discrimination, actual or statistical,[13] they will generally have a lower opportunity cost than men with comparable skills. Employers will never hire a man for a job that can be done equally well by a woman, and jobs will be segregated by gender. But as Edgeworth noted above, competition in the labor market will equate the considerations of the employee and those of the employer, and thus the attributes of individuals can be used instead of those jobs. Individuals will sort into jobs to maximize their utility, and the labor market will evaluate their characteristics in a "hedonic price index" manner. Alternatively, the characteristics of the various jobs will be evaluated in the marketplace and will each be assigned a cost. Because it does not seem unreasonable to use the competitive ideal as the standard, the valuation of individual characteristics will be pursued.[14]

The results should be invariant to the choice of the occupation or the individual as the unit of analysis, if there are no unobservables. The existence of discrimination would be determined by estimating a regression equation where the dependent variable is the earnings of an individual (or a job) and the independent variables are the characteristics of the individual (or the job). The sex of the individual (or the job, in percentage terms) would also be entered as a variable. A significant coefficient on this variable would constitute prima facie evidence of discrimination. The problem with such estimation is that there are important unobservables. Employers might claim that women prefer to remain in lower paying positions that have more time flexibility. They may also claim that there are distinct productivity differences between the sexes that are unrelated to education and experience on the job. The doctrine of comparable worth is predicated on the notion that it is easier to measure the characteristics of jobs than it is the characteristics of individuals. In the analysis below, changes in the characteristics of individuals and how they are rewarded in the marketplace will be of ultimate importance in understanding increases in relative earnings for females to males over time.

Four factors are of paramount importance in this analysis: gender-specific skills, life-cycle labor force experience, work expectations, and education. The first three will be discussed below; education has already been addressed. Because the time frame being considered is long and because changes in the three factors become important at different times, the discussion of each will detail a particular era. That relating to gender-specific skills will focus on the period before 1920; that on life-cycle labor force experience will focus on 1930 to 1980; that on expectations deals with 1890 to 1980 and in more depth for 1960 to 1980.

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[13] Becker, 1971.

[14] Note that the method advanced here coincides with that used in most sex discrimination cases in which regression equations are estimated using experience and education, among other factors, as the dependent variables. The "hedonic price index" refers to this type of weighting of the various factors.

Gender-Specific Skills

What was the premium paid to men for their larger size and strength during the 19th century? Can one demonstrate that this premium declined over time with technological advance? With the agricultural sector, the relative earnings of females to males (and young boys to adult males) is highly dependent on the crop. In the early 19th century, the relative wage of females to males, and boys to adult males, was very low in the northeastern United States, but it was considerably higher in the cotton growing regions of the South.[15] The introduction of the factory system and its machinery almost doubled the relative earnings of females to males in the American Northeast. But relative earnings within manufacturing were still much below one.

The extensive use of piece-rate wages for females in manufacturing at the turn of this century enables an estimate of the wage premium for strength or other physical differences correlated with gender. This premium can be measured only for jobs in which both men and women were employed, and as the data on occupational segregation suggest, this was a rather short list. Males may have been temporarily placed until a job in a "male" position became available; alternatively, those employed in these jobs may have been less productive than the average male. Therefore, the difference between the wages of males and females working on piece rates for a particular job may understate the difference that would have existed across all occupations, had men and women been found in all jobs.

Data on piece-rate earnings in 1895[16] indicate that males earned on average 30 percent more than did females, when the piece rate was identical for both, and when both worked at the same job, in the same factory, and were of the same age group. Because piece rates are paid on actual physical product, any difference in earnings for full-time workers occupying the same position in the same firm must reflect a difference in strength, dexterity, determination, and so on. The average ratio of female to male earnings for time-rate work in the factories sampled was about 0.60, from the 1895 report; the ratio for piece-rate work was 0.77.[17] The difference in physical product, therefore, accounts for 23 percentage points and the residual is 17 percentage points, out of a possible 40 percentage points.

Thus, the premium paid to men for gender-specific abilities was at least 58 percent of the actual difference of 40 percent.[18] It was at least this amount because time-rate jobs, in which there were few women, paid more, and men may have been perferred to women in such jobs because of gender-specific skills. There were, as well, entire industries in which there were practically no women hired, but the curious aspect of these industries is that male earnings were not on average higher than earnings were in those hiring a disproportionate number of females. Women did not earn less than men in manufacturing because they were not employed in iron and steel, agricultural implements, shipbuilding, or masonry in which males constituted 99 percent of the labor force. They earned proportionately less than men even in the industries in which they were very numerous, such as boots and shoes, cotton, woolens, boxes, and clothing.[19]

Life-Cycle Labor Force Experience

It is clear from the data in tables 1 and 2 that for most of American history the vast majority of women did not participate in the labor market on a par with men, and that the participation rate of white married women was low until the 1950s. There has been much debate over the accuracy of the labor force data from the pre-1940 population censuses.[20] A careful reworking of these data, using independent sources from the period, suggests that the inclusion of boardinghouse keepers, unpaid family farmworkers, and industrial homeworkers does increase the labor force participation rate of married women in 1890.[21] But these additions do not in any important manner affect the accumulated experience of the working population of women over the 20th century.

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[15] In Southeast Asia today, areas with a comparative advantage in tree crops, for example, have a much lower relative wage for females and children than do areas that cultivate rice.

[16] U.S. Commissioner of Labor, 1897.

[17] All printing and cigar factories were sampled from the 1895/96 report.

[18] Edgeworth has also suggested the same calculation in response to a claim by a woman whom he called "a generally impartial expert" and a "feminist." The claim was that "there is no reason save custom and lack of organisation why a nursery-maid should be paid less than a coal-miner" (p. 442), a remark having compelling similarity to the defense in *Lemons*.

[19] In 1890 adult men constituted over 94 percent of the labor force in 21 industries that together constituted 50 percent of the male manufacturing labor force, when all adult males were 79 percent of the manufacturing labor force. Adult women constituted over 30 percent of the labor force in a different set of 21 industries that together constituted 77 percent of the female manufacturing labor force, when all adult females were 18 percent of the manufacturing labor force (Goldin, 1984b).

Despite the low degree of labor market participation of married women, those in the labor force could have remained in for substantial periods of time, if their labor market turnover was low. Because labor force participation expanded over time for this group, new entrants must have joined the existing workers. These new entrants would have had very little prior labor force experience, and their entry would have tended to decrease the average level of experience of the currently working population of women.

Direct information on life-cycle labor force participation for adult women would inform the relative earnings data in two ways. The absolute level of labor market experience is important in evaluating differences between average male and female earnings, as is frequently the case in earnings functions, that is, regression equations of earnings on individual characteristics. Changes over time in the earnings ratio ought to be related to changes in the experience levels.

Data on life-cycle labor force participation and the average labor market experience of working women are scarce even in the post-World War II period until the 1967 panel surveys (NLS and PSID). Two separate studies have constructed estimates of these variables for the period from 1930 to 1980.[22] The findings indicate that average years of labor market experience for currently working women have barely increased over this period, despite the rather large increases in labor force participation so evident from the data in tables 1 and 2 and in figure 1. Years of job experience for the currently working population of married women increased from 9.06 in 1930, to 9.78 in 1940, to 10.52 in 1950.[23] The labor market experience of working women age 40 remained roughly constant at 13.5 years for 1940 to 1980, while the work experience of the entire population of women aged 40 rose by 4 years.[24]

The apparent paradox afforded by these two disparate trends, that for working women and that for the entire population of women, is easily resolved. Adult women in the labor force have had a strong tendency to remain in the labor force for substantial periods of time; that is, their turnover was not very high. But those just entering the labor force have had relatively low experience levels. The average work experience of the entire population of working women increased greatly over the last 50 years, but the average work experience of those currently working did not, as new entrants continually brought down the average.

These data cut in two different ways in the explanation for the relative earnings data and the changes in these ratios. In terms of the absolute level, the tendency for women to remain in the labor force should have led to high wages and good jobs. But the stability of average years of experience should have lessened the relative gains in the ratio of female to male earnings. Because earnings are only observed for individuals in the labor market, the experience level of the working, and not the entire, population is the relevant variable.

The findings with respect to changes over time in life-cycle work experience are consistent with those concerning changes over time in the ratio of female to male earnings. But the findings with respect to the average length of employment at any point in time are disturbing. Several studies have pointed to differences in the earnings of women and men having equal experience and education. Because the substantive findings of these studies do not differ greatly,[25] I will use my own study of clerical workers in 1940 as an example.[26] There was considerably more overlap between men and women in clerical occupations in 1940 than after that date. But females generally entered a particular occupation and remained in it, while males advanced through a series of jobs. Initial wages were similar, but the male-female earnings function gap widened considerably with experience. Therefore, women entered occupations in which they always earned less than did men, given initial experience and education. No life-cycle labor force participation could justify the choice of occupations by women on the basis of financial considerations alone.

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[20] See Bancroft, 1958; Durand, 1948; Lebergott, 1964; Smuts, 1959.

[21] Goldin, 1984a.

[22] Goldin, 1983b; Smith and Ward, 1983.

[23] Goldin, 1983b, p. 26.

[24] Smith and Ward, 1983.

[25] See O'Neill and Braun for a brief survey.

[26] Goldin, 1984b.

Job Market Expectations

The data in figure 1 on cohort labor force participation among white married women demonstrated that women in the United States had increased participation in the labor force within marriage, at least until age 55. Each successive decade brought an expanded participation of married women in the market economy. Thus, the actual cohort labor force participation rates have been substantially different from the cross section ones (for example, see the cross section dotted line for 1970).

The differences between the true cohort participation profiles and those of the cross sections are not merely of academic interest. They are of critical importance in understanding how older generations socialize the younger, how the younger form their own expectations about their future labor market participation, and how society and employers do the same. The vast differences between the true cohort profiles and those in the cross sections imply that no generation of young women in America could have predicted solely from the experiences of their elders what their own work histories would be.

In 1930, for example, a cohort of 20-year-old daughters born in 1910 would have been off by a factor of about 4 in predicting their own participation rates in 25 years had they simply used the experiences of their 45-year-old mothers born in 1885 as a guide. But they were far more informed than this simple extrapolation would suggest. They knew, for example, that their years of schooling were higher than their mothers', and they may have been aware that the jobs they held when unmarried were different from their mothers'. Knowledge of these differences would have narrowed the gap between the simple extrapolation and the actual value of the daughters' labor force participation. However, there is empirical evidence that many cohorts have vastly underestimated their own future labor force participation and, therefore, may have underinvested in job-related skills.

In 1968 the National Longitudinal Survey asked its young female sample, who were then 14 to 24 years old, what percentage believed they would be in the labor force at age 35. The response was 29 percent for whites and 59 percent for blacks.[27] More than half of these young women are now age 35, and their labor force participation rate already exceeds 60 percent if they are married and even higher if not. The figures they had reported when young were more in line with their mothers' labor force participation rates than with their own.

Although the expectations of young women in 1968 were much below their eventual labor force participation, a similar question asked of young women in 1973 indicates a rapid convergence of expected and actual participation rates. Of the women who were 19 to 29 years old in 1973, 60.3 percent of the whites believed they would be in the labor force at age 35 and 73.8 percent of the blacks did.[28] In 1968 young women expected a labor force participation when they were 35 years old that was more in line with that of their mothers when they were 35 years old. By 1973 these young women were forming their expectations more on the basis of current conditions in the labor market for their cohort.

To see more clearly how expectations may have been formed, look again at figure 1, as reinterpreted in figure 1a. Point A indicates the percentage of 20-year-olds in 1968 who thought they would be in the labor force at age 35. This point is almost identical to the participation rate of their mothers (born approximately in 1923) when they were 35 years old and is not very different from that of a 35-year-old married woman in 1968. Just 5 years later, in 1973, these same young women had revised their expectations to point B, which is not very far below the actual participation rate of 35-year-olds in 1983, conditional on being married. One can also readily see that the distance between the cohort lines at age 35 widens after the cohort born around 1926–1935, that is, after 1965. The cohort that was 20 years old in 1968 might have found it difficult to forecast its future labor force participation in a period of rapid change.

These data suggest that during periods of rapid change it may be difficult to forecast the future accurately. Individuals extrapolate from the world around them, and in doing so they may underestimate their need for formal and on-the-job training. The result may be that the actual returns to job experience for women are less than are those for men and that resulting wage ratios are less than one even when job experience is equal.

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[27] Sandell and Shapiro, 1980.

[28] It should be noted that the extreme change in response might be related to a change in the question asked in the survey.

Summary Remarks

Is the scenario described at the beginning of this paper an accurate depiction of the historical record? Have technological advance, economic progress, education, and increased female labor force participation served to raise the average earnings of females relative to males?

The answer is somewhat mixed. Relative earnings across all occupations have increased through most of this century and have advanced within manufacturing across the 19th century as well. Certain occupations that rewarded intellect more than strength witnessed increased earnings for women relative to men, but others that required a long labor force commitment have not until very recently. Earnings ratios have been surprisingly constant during the last half-century for occupational groups requiring little skill and education.

Increased female labor force participation over this century has served to stabilize, and not increase, the accumulated years of labor force experience of the average female worker, and therefore, the returns to job experience need not be reflected in the aggregate earnings for women. But the regression equations estimated in most discrimination studies indicate that females do not advance across jobs in much the same way that men do, with years on the job or with the firm, and this relative lack of job advancement accounts for a large percentage of the difference in the wages between males and females. Job investments seem to be "too low" for women.

The rapid expansion of the female labor force throughout this century may have made the future highly unpredictable for many cohorts, and surveys of young women indicate that this explanation is a plausible one for many cohorts in the past. One should not underestimate the extent of the social revolution that has occurred in the labor market and the difficulties in forecasting the future in times of rapid change. Current cohorts, however, seem to have revised their expectations in light of past change and may provide a true test of the ideals of the competitive marketplace.

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PANEL

Occupational Segregation and the Earnings Gap

Occupational Segregation and the Earnings Gap

By **Andrea H. Beller***

This paper will address the following issues: (1) What is the relationship between occupational segregation and the male-female earnings gap? (2) If occupational segregation is due to discrimination, to what extent can (do) equal employment opportunity (EEO) laws reduce that discrimination? (3) Why do some occupations continue to be "male" and others "female?" (4) What are the implications of relying on changes in the occupational distribution to reduce the male-female earnings gap?

We argue that since male occupations pay more than other occupations, much of the male-female earnings gap may be explained by sex differences in occupational distribution. We discuss the discrimination explanation for this occupational segregation and, briefly, the alternatives explanation based upon choice and human capital. We then go on to discuss how EEO laws are expected to affect occupational segregation and what the actual effects of enforcement of Title VII of the 1964 Civil Rights Act (Title VII) have been. We then argue that there has been a noticeable reduction in the amount of occupational segregation during the 1970s in contrast to previous decades, and we document these changes. But change has been greatest for the youngest cohorts while older cohorts dominate the labor force. We speculate why, in the face of these declines in occupational segregation, the earnings gap remains virtually unchanged. To the extent that changes in occupational distribution are slow and benefit some workers only little, if at all, there is a basis for favoring the comparable worth approach.

What Is the Relationship Between Occupational Segregation and the Male-Female Earnings Gap?

Much of the earnings gap between men and women can be explained by occupational differences rather than by unequal pay within the same occupation.[1] That earnings and occupational segregation are related is demonstrated by the empirical finding that earnings are 30–50 percent higher in traditionally male occupations than in predominantly female or integrated occupations.[2] Moreover, the more an occupation is dominated by women, the less it pays.[3] Differences in hours or weeks worked and human capital differences in education and training between individuals in traditionally male and in other occupa-

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* Assistant Professor, Department of Family and Consumer Economics, University of Illinois–Urbana.

[1] See, e.g., Fuchs, 1971; Oaxaca, 1973; Treiman and Hartmann, [illegible]

[2] Beller, 1982b.

[3] Treiman and Hartmann, 1981.

tions explain only some of this earnings differential. Around 30–40 percent of the total differential remains unexplained after controlling for measurable differences in human capital and amount of labor supplied. This holds for both men and women. In 1974 this remaining difference in earnings was around 10–12 percent of total earnings.[4] The inclusion of the requirements of jobs does not alter this finding.[5] The model of discrimination originally developed by Bergman (1974) explains how wages may be higher in the male sector and lower in the female sector than would result from differences in the productivity characteristics of the workers alone.

The explanation proceeds as follows: Discrimination against women in certain occupations by employers, employees, and consumers acts as a barrier to their entry into those occupations and results in fewer women being hired. How many fewer will depend upon the extent of the inclination to discriminate as well as on how much it costs to do so. Not only will these occupations become male dominated, but the decline in demand for women relative to men may also lower women's relative earnings. (Of course, direct wage discrimination is expressly prohibited under the Equal Pay Act and Title VII of the Civil Rights Act of 1964.) Because this discrimination imposes an artificial barrier to the entry of labor into these occupations, average wages in them will rise and they will become artificially high-wage jobs. The restrictions upon entry into this male sector force some women, if they want to find employment, to crowd into occupations in which employers do not discriminate against them, or discriminate less. Crowding in this other sector pushes wages below what they would be in the absence of discrimination. It is this fact—that discrimination causes wages in the female sector to be below the free-market level—that provides the basis for the argument in favor of comparable worth.

Competing with this *discrimination* explanation for the occupational differences we observe is the explanation based upon *choice* as developed by Polachek (1979).[6] Polachek argues that the incentives to enter various occupations differ between men and women and thus women will choose to enter different occupations than men. They will choose to enter those occupations with the smallest earnings losses from anticipated absences from the labor force over the life cycle due to childbearing and rearing. They will, thus, become segregated into occupations characterized by a relatively slow rate at which skills deteriorate with absences from the labor force. These tend to be lower paying occupations.

Since both theories are persuasive and not mutually exclusive, it remains for empirical testing to establish their validity. The empirical evidence for Polachek's choice explanation has not been very impressive. Results presented in Beller (1982b) show mixed evidence on the choice hypothesis and find that, at any rate, the (labor supply) variables play only a minor role in occupational segregation. Moreover, we would expect that some evidence would show that women earn more over their lifetime in women's occupations, but no one else has done so. Other evidence has been even less favorable to Polachek's hypothesis.[7] Further, according to Gronau (1982), it is not their own intentions to drop out of the labor force that explains why women invest less in on-the-job training than men, but rather the "lack of investment opportunities owing to employers' expectation that they will drop out of the market." Thus, they are paid lower wages and this provides an incentive for them to drop out.

Unfortunately, the discrimination explanation cannot be tested directly, for we have no direct measure of discrimination. Discrimination is typically measured as the unexplained residual in an earnings (occupation) regression in which as many productivity-related measures as possible are controlled for. These productivity-related measures typically account for less than one-fifth of the difference between men's and women's average earnings. The two studies that explain the most[8] still explain less than half the difference.[9] Beller (1982b) used the effects of enforcement of Title VII as an indirect measure of discrimination. It was argued that if these laws were shown to have effectively reduced occupational segregation, that was evidence of initial discrimination, at least as defined by the courts. The empirical evidence presented strongly supports the discrimination explanation of occupational segregation. These findings will be discussed in the next section of this paper.

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[4] Beller, 1982b.
[5] Treiman and Hartmann, 1981.
[6] See also Mincer and Polachek, 1974.
[7] See, e.g., England, 1982; Corcoran and Duncan, 1979; Duncan and Ponza, 1983; Angle and Wissman, 1983.
[8] Mincer and Polachek, 1974; Corcoran and Duncan, 1979.
[9] Treiman and Hartmann, 1981.

Summary: The earnings gap is due in large part to the occupational differences between the sexes rather than unequal pay within the same occupation. Male occupations pay more than other occupations even after taking account of the fact that people in them may have greater human capital or spend more time on the job. This unexplained earnings differential between male and other occupations can be explained by Bergmann's theory of occupational crowding. According to that theory, discrimination lowers wages in the female sector and may raise them in the male sector. A competing explanation suggests that women choose jobs in the female sector because they are compatible with anticipated absences from the labor force for childbearing and rearing. Because these jobs have less earnings growth, they pay less. Both explanations are persuasive and are not mutually incompatible. It is only through empirical testing that their relative validity can be sorted out. Empirical evidence has been consistent with the discrimination explanation, but is quite mixed on the choice explanation. The debate in the literature continues.

If Occupational Segregation Is Due to Discrimination, to What Extent Can (Do) Equal Employment Opportunity Laws Reduce That Occupational Segregation?

To the extent that the discrimination explanation is correct, occupational segregation and the sex-based earnings gap will continue unless the desire to discriminate declines and discriminatory behavior by employers, employees, and consumers lessens. Unless we expect these changes to occur naturally (say, as more women enter the labor force), if we want the gap to be reduced, incentives for change must be provided. Antidiscrimination laws provide incentives for such change by making discrimination more expensive to employers. Therefore, Title VII may be expected to reduce discrimination against women in employment and, hence, diminish occupational segregation by sex.

The employment provision of Title VII prohibits the use of sex as a hiring criterion by employers. This implies that a firm may not be in compliance with the provision if its female to male employment ratio is significantly below the ratio of women to men in the available pool of qualified labor. Firms may come into compliance by attempting to hire a higher proportion of women in all different types of positions than previously. To the extent that firms respond in this manner, demand for women relative to men increases in the labor market. This tends to increase the relative employment and/or relative earnings of women. As long as some firms change behavior to come into compliance with the law and others do not increase the extent of their violations, we should observe a decline in occupational segregation against women. These effects are simply the reverse of those caused by discrimination as described above.

The process by which Title VII is expected to affect behavior involves a set of economic incentives. That is, the law imposes penalties upon firms that engage in discriminatory employment practices. If the expected psychological and monetary costs of violation exceed the costs of compliance, then a firm will comply with the law. The costs of violation to employers depend upon both the probability that a case will be pursued through each procedural phase and the actual costs incurred at each step along the way. Because the 1972 amendments to Title VII expanded its scope and increased the expected costs of violation, the law's effect should be larger after 1972.

According to empirical work analyzing the effects of Title VII, the law has significantly reduced occupational segregation.[10] The data reveal that Title VII increased a woman's chances, compared to a man's, of being employed in a male occupation, and that the 1972 amendments to the law augmented this change. Enforcement of Title VII with respect to sex discrimination narrowed the sex differential in the probability of being employed in a male occupation by about 6.2 percent between 1967 and 1974, and by about 8.3 percent by 1977. Earlier work[11] showed that the net effect of enforcement of Title VII was to narrow the sex differential in earnings by about 7.1 percent between 1967 and 1974 although the gross differential remained unchanged. Further, it was found that gains were larger for the youngest cohorts of women, both those who entered the labor market in the early seventies and those who entered in 1977. Finally, college-educated women appear to have benefited most from equal opportunity laws over this period.[12]

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[10] Beller, 1982a; Beller, 1982b.

[11] Beller, 1979.

Although our results indicate that enforcement of legislation prohibiting sex discrimination can be effective in desegregating the work force, the change appears small when measured against the size of the gap that remains. The data demonstrate that Title VII's enforcement over 7 years diminished sex-based occupational segregation by 13.2 percent (measured as a percentage of the gross difference remaining at the end of the period). Although this change is not insignificant, at that rate it would take between 75 and 100 years for the gap to disappear and for the job distribution to become completely integrated. Even this estimate may be unduly optimistic because enforcement will tend to eliminate the least resistant forms of discrimination first. As time passes it is likely to become increasingly difficult to eliminate all remaining vestiges of discrimination. But it may be unrealistic ever to expect a completely integrated occupational distribution; even in the absence of discrimination, women might choose different occupations and have different qualifications than men. Although it is exceedingly unlikely that women will choose occupations as different as they are now, many of them still might prefer certain types of work to other types (for example, working in an office to operating a crane).

There are other possible explanations than the impact of the statutory amendments for why Title VII was more effective after 1972. One important one is Title IX of the education amendments, enacted in 1972, which prohibits sex discrimination in education. Earlier prohibitions against sex discrimination were limited to employment. Pre-Title IX laws attacked sex discrimination only from the demand side—that is, from the side of the employer—while leaving the supply side unaffected. Simply reducing the barriers to entry faced by women might be insufficient. Women must come forth to enter traditionally male occupations. Title IX, which facilitates women's acquisition of needed skills, should help to accomplish this. Hence, the existence of Title IX probably enabled Title VII to be more effective.[13]

Summary: In this section, we have reviewed the mechanism by which EEO laws may be expected to affect the behavior of employers with respect to hiring. The employment provisions of Title VII, if effectively enforced, should reverse the effects of discrimination that were described in the previous section. What have the actual effects of Title VII been? According to our extensive empirical work, Title VII has definitely been effective in reducing occupational segregation of the sexes and in narrowing the male-female earnings gap. Well, then, could we rely solely on Title VII and other equal opportunity laws to eliminate all the effects of discrimination? That depends upon how long we are willing to wait to achieve a nondiscriminatory occupational distribution and, consequently, an earnings differential that reflects only differences in productivity and perhaps tastes. According to our estimates, it would take about 75 to 100 years for Title VII's enforcement to bring us to a completely integrated occupational distribution if change continued at its present rate.

Why Do Some Occupations Continue to be Male and Others Female?

The premise underlying this question, that the situation is static, is incorrect. In fact, considerable change in the occupational distribution occurred during the 1970s in contrast to earlier periods.[14] In this section, I will draw heavily upon two earlier papers[15] to detail these changes in women's entry into nontraditional occupations and in their fields of study during the 1970s.[16] Finally, I will conclude by offering some projections of change in occupational segregation for the 1980s.[17]

Trends in Occupational Segregation by Sex

Trends in occupational segregation are commonly measured by the index of segregation.[18] The index may take on a value between 0 and 100, where zero represents perfect integration and 100, complete segregation. The number tells the proportion of women (or of men) who would have to change jobs for the occupational distribution to reach complete equality between the sexes. In order to assess trends in occupational segregation during the seventies, we used data from the Current Population Survey (CPS) conducted monthly by the Bureau of the Census.

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[12] Beller, 1982a.

[13] Ibid.

[14] Beller, forthcoming, 1984; Bianchi and Rytina, 1984.

[15] Beller, forthcoming, 1984; Beller, 1984.

[16] Beller and Han, forthcoming, 1984b.

[17] Beller and Han, forthcoming, 1984a.

[18] Duncan and Duncan, 1955.

We have shown that occupational segregation of the sexes declined continuously during the seventies at a rate that far exceeded the decline during the sixties, contrary to previous findings.[19] The index of segregation computed over 262 detailed census occupations declined from 68.32 in 1972 to 61.66 in 1981. This means that 72 percent of women (or men) would still have to change jobs for the occupational distribution to reach complete equality. Between 1972 and 1981, the index of segregation declined at an average annual rate nearly three times as high as during the sixties, i.e., -0.74 compared with -0.28. The annual rate of decline in the segregation index appears to have accelerated slightly in the mid-seventies and remained steady through 1981. By standardizing the occupational distribution to 1972, we were able to determine that most of the decline in occupational segregation was due to changes in the sex composition within (size-standardized) occupations rather than to changes in the relative sizes of occupations. Previous studies detected no change because they compared 1970 census data with CPS data after 1971, and these two data sets are not comparable.[20]

Professional occupations are less segregated than the work force as a whole and experienced a somewhat larger decline in segregation during the seventies. The segregation index for 59 professional occupations declined from 59.44 in 1972 to 50.55 in 1981. This indicates an average annual rate of decline of nearly 1 percentage point. Since these occupations are composed primarily of individuals with a college degree, a related statistic is the index of segregation computed over earned bachelor's degrees conferred on men and women by field of study. (This statistic is based upon data, published by the National Center for Education Statistics, on the distribution of all degrees granted by all accredited, degree-granting institutions in the U.S. during a specified academic year.) The segregation index computed over college majors declined from 46.08 in 1969 to 35.62 in 1978. The average annual rate of decline in this index is 1.16 per year. Thus, our data show that during the seventies segregation by field of study among bachelor's degree recipients declined rapidly, followed by the professional occupations, and finally, the work force as a whole.

Breaking down these changes in segregation to the underlying components reveals the following. Although women continue to enter some of the traditionally female occupations in large numbers, such as registered nurses and banktellers, they decreased their rate of entry into others, such as secretaries and elementary school teachers. Although large declines in segregation occurred in only a few nontraditional occupations, notably, accountants, bank officers, and financial managers, and janitors and sextons, many nontraditional occupations became somewhat less male dominated. Also contributing to a decline in segregation were the dramatic declines in the size of the traditionally female occupations of sewers and stitchers and telephone operators, presumably the first due to a declining industry and the second due to rapid mechanization eliminating the need for as many telephone operators. These changes suggest that women are going to many different nontraditional places in the labor force.

It is interesting to speculate on how these changes are related to equal opportunity policy. EEO legislation was strengthened in 1972, and equal educational opportunity legislation was passed in that year. One would expect to see, with some lag, an acceleration in the decline in occupational segregation that appears to have begun in the early seventies.[21] Thus, the increase in the average annual rate of decline in the segregation index from the early to the mid-seventies may be attributed to equal opportunity laws as discussed in the previous section. This evidence is only suggestive, however, because there also appears to have been a transformation in women's career aspirations so that now young women are aiming at certain traditionally male occupations more than in the past.[22] (We will return to this point later.)

Declines in Male Domination of Occupations

Although a majority of occupations continue to be male dominated (operationalized as 72.2 percent male or more), the proportion, which had increased during the sixties, declined steadily from 62 percent to 55 percent during the seventies. In addition, the small minority of occupations that are integrated (62.3 to 72.1 percent male) grew steadily from around 6 percent to around 11 percent by the end of the 1970s.

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[19] Lloyd and Niemi, 1979; U.S. Commission on Civil Rights, 1978.

[20] For more detail, see Beller, forthcoming, 1984.

[21] Beller, 1982b.

[22] Cherlin and Walters, 1981.

Women's relative share increased in many more male occupations during the seventies than during the sixties. Although it increased in only one-quarter of occupations that were male during the sixties, women's relative share increased in around one-half of such occupations during the seventies. That the sex composition shifted favorably for women in twice as many male occupations during the seventies as during the sixties is roughly consistent with the finding that the segregation index declined about twice as much.

Changes among white-collar occupations are striking: Women increased their relative share of employment in the vast majority of male white-collar occupations during the seventies. The professional, managerial, and sales categories experienced approximately threefold, eight- or ninefold, and twofold increases in the percentage of male occupations in which the relative female share increased. It increased in 26 out of 38 male professional occupations, in 11 out of 13 male managerial occupations, and in all 8 male sales occupations. Moreover, between 1972 and 1981, the number of occupations that were male dominated decreased by 20 of which 9 were professional, 2 managerial, 2 sales, and 4 clerical. Exceptional change occurred in the managers and administrators category: from practically none in the sixties, practically all male managerial occupations became relatively less male during the seventies. The differential in the rate of entry of women into male, compared to all, white-collar occupations grew larger during the seventies, indicating an acceleration in women's penetration of male white-collar occupations consistent with our findings for the index of segregation.

Counterbalancing that increase in women's entry into nontraditional occupations is the continued tendency for women to enter the clerical occupations. Women's relative share grew in nearly all male clerical occupations during the 1970s, decreasing the number from 9 to 5. Another factor keeping the overall level of segregation high is that women had little success in entering the traditionally male, blue-collar occupations. Their relative share of crafts, operative, and laborer jobs remained relatively constant during the seventies. This has particular significance for the male-female earnings gap because the crafts occupations are relatively high paying. Women employed in crafts jobs earn more on the average than women employed in either clerical or sales jobs. Also of significance for the male-female earnings gap is whether the dramatic changes, especially in the managerial occupations, represented real gains or merely "job title inflation," whereby job titles change but compensation does not.

Cohort Differences in Declines in Occupational Segregation

Is the decline in occupational segregation by sex during the seventies uniformly distributed throughout the labor force, or concentrated in groups most able to benefit from improved access to nontraditional jobs and opportunities for advancement? We believe that new and recent labor market entrants are most able to benefit from improved opportunities. If access to nontraditional occupations increases, new entrants will have more opportunities to enter the occupational structure at preferred points than older cohorts with the same education had. Since adjustments in education can only occur with some lag, new entrants also have the greatest opportunities to acquire more education and to alter their field of study in response to perceptions of improved opportunities in the labor market. In general, the educational attainment of younger cohorts of women is higher than of older cohorts, and women are increasingly likely to go on for additional degrees at all degree levels.[23] Recent entrants in the early stages of careers can take advantage of new opportunities for advancement. Our results show that, during the seventies, each entering cohort (operationalized by 10-year intervals) is less segregated than the previous one and experiences a greater decline in segregation as it ages. Our data also show that although the occupational distribution differs only slightly between older and younger generations as a whole, the sex composition within occupations differs substantially between recent and older cohorts. Thus, for example, although approximately the same proportion of the youngest and of older cohorts are accountants, a higher proportion of youthful accountants are women. This is due in part to the growth of some male occupations and in part in the increase in men in

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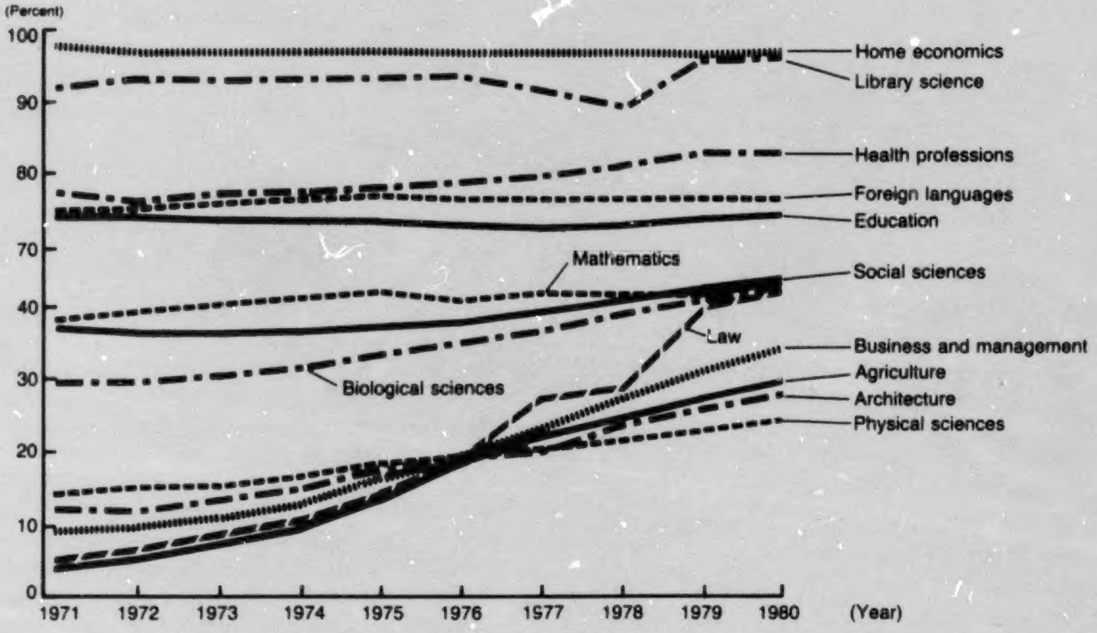
[23] Beller and Han, forthcoming 1984b.

FIGURE 1.
Percent Female Among Bachelor's Degree Recipients by Major Field of Study, 1970–71 to 1979–80



Source: National Center for Education Statistics, *Earned Degrees Conferred: 1970-71*, p. 12; *1975-76*, p. 21; and *1979-80*, p. 26.

some female occupations, such as elementary school teachers, nurses, and cooks.

One explanation for the finding that younger cohorts benefited more from the declines in occupational segregation than older cohorts is changes in aspirations. What might cause women's aspirations to change? First, perceptions of wider opportunities in the labor market would lead to aspirations for what is now perceived to be available and acceptable. Part of the reason it is now "acceptable" for women to be managers and engineers is because other women in the next older cohort have managed to break tradition and enter these occupations. It is highly probable that these new opportunities originated with the push for equal employment opportunity and affirmative action. Second, the changing roles of men and women lead to a different set of expectations for young women. If sex roles are less divergent than in the past and women expect to spend more time in the labor force, then they may choose different occupations. Finally, the increased divorce rate means that young women need to be able to be more self-sufficient. Thus, they will choose higher paying jobs as a type of insurance policy.

As mentioned above, younger women have the opportunity to implement desires to work in nontraditional occupations. In college they can choose to major in different fields than their predecessors. So changes in college majors should be an indicator of the extent to which women are looking toward new horizons. As indicated above, the index of segregation for college majors declined substantially during the seventies, more rapidly than for occupational distribution. Let us examine some of the specifics underlying this aggregate change.

During the seventies, women increased their number and share of bachelor's degrees in *all* traditionally male fields of study except theology. Figure 1 shows that the traditionally male fields of agriculture, law, business and management, architecture, and physical sciences received a growing share of the new female students. The largest gains between 1971 and 1980 in the number of bachelor's degrees awarded to women occurred in business and management; women increased their share of degrees in every subfield except secretarial studies, with the largest gains in accounting and in business management and administration. The proportion of women majoring in agriculture and natural resources increased from 4.2 percent in 1971 to 29.6 percent in 1980. The proportion of women in architecture and environmental design and in computer and information sciences more than doubled. Although men still clearly predominate in engineering, there was a noticeable increase in the percentage of women among majors in this field, from 0.8 in 1971 to 9.2 in 1980. At the same time, women decreased their number and proportion of degrees in the declining traditionally female fields of education and letters. They also decreased their proportion but increased their number of degrees in the growing, traditionally female fields of nursing and home economics.[24]

I now return to the original question posed in the title of this section: Why do some occupations continue to be male and others female? Clearly, trends among younger, college-educated women toward traditionally male fields are striking, but even if all of these young women with nontraditional educations were to find themselves in nontraditional jobs, they would still hold only a fraction of all of the jobs held by women. The occupational distribution, as a whole, will continue to reflect the strong male and female divisions that we have inherited. Even if the present rate of change in the education, training, choice of major, and aspirations of young women were to continue, it would still take many years for us to see an occupational distribution that looked much less segregated than it is now. Moreover, the continued influx of older cohorts of women into the labor market maintains the crowding in the traditionally female occupations. Older, more segregated cohorts must retire before the labor force as a whole reflects the trends within the younger cohorts. Moreover, increasingly less segregation among younger cohorts is likely to be a self-reinforcing process.

Projections of Occupational Segregation by Cohorts

If present trends continue, what amount of occupational segregation would we expect to see at the end of this decade, and when could we expect to achieve complete equality? The following material is based upon projections prepared for the National Academy of Sciences.[25] We based our projections upon trends within 10-year age cohorts between 1971 and 1977 in the sex composition of detailed occupations.

Our moderate projection is constructed under the assumption that the rate of change in the sex composition of occupations between entering cohorts will be the same between 1977 and 1990 as it was between 1971 and 1977—a period of considerable change. We might expect this if youthful attitudes and aspirations have changed, but equal opportunity efforts subside so that the rest of the labor force remains as segregated as it becomes older as it was in 1977. Our optimistic projection is constructed under the assumption that affirmative action, attitudes, and other factors continue to change during the eighties at the same rate as during the seventies. We consider this to be an upper bound estimate on the decline in occupational segregation over the next decade.[26] We consider it moderately optimistic to assume that the rate of change for each cohort during the eighties is one-half the rate during the seventies.

Based upon our moderate assumptions that further declines in segregation occur only between entering cohorts after 1977, we projected a decline in the index of segregation to 57.29 in 1990. Although we predict a large drop in segregation for the youngest cohort, even changes of substantial magnitude restricted to a single cohort have limited impact on the overall index. It would take many years of continued influx of less segregated cohorts for the overall occupational distribution to show a major decline in segregation.

Our moderately optimistic and optimistic assumptions project a significant decline in the index of segregation during the eighties. Based upon the assumption that the rate of change in percentage male for each occupation as a cohort ages between 1977 and 1990 is half the rate for the similar cohort between 1971 and 1977, we project the index of segregation to decline by 11.68 percentage points to 50.02 in 1990. The optimistic projection, which assumes the rate of change in sex composition by occupation for each cohort between 1977 and 1990 is the same as between 1971 and 1977 for the comparable cohort, predicts a rather substantial drop in the segregation index of nearly 20 points to 42.20. According to these optimistic estimates, if these rates of change were sustained, it would take between 25 and 55 years for the work force to become completely integrated. However, as noted above, it would become increasingly difficult to eliminate remaining discrimination as that point was approached. Since the average person's work life is around 40 years, very few of those currently in the labor force could ever hope to witness this change, although they would experience some benefit along the way. Under the moderate projections, it would take over 100 years for that point to be reached.

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[24] Ibid.

[25] Beller and Han, forthcoming, 1984a.

[26] For this projection, we assume that as each 1977 cohort ages to 1990 its rate of change in percentage male in each occupation is the same as for the similar cohort as it aged between 1971 and 1977, and that the rate of change between entering cohorts in 1977 and 1980 is the same as between entering cohorts in 1971 and 1977.

Summary: In this section, we have argued that, by contrast to the 1960s, the 1970s was a decade of considerable change in the occupational distribution, where women entered nearly all traditionally male (white-collar) occupations at an increasing rate. Many fewer occupations were male dominated at the end than at the beginning of the decade. Changes would be even greater had women not continued to flood the clerical occupations that grew substantially over this period. Change would also have been greater had women made even the slightest inroads into the traditionally male, blue-collar occupations.

When we look at declines in segregation by cohort, we find substantially more change among younger women. This can be explained by their greater ability to benefit from increased opportunities, perhaps created by EEO laws; their changes in aspirations; and changes in their fields of study. When we look at the labor force as a whole, these changes appear much less, for they are counterbalanced by little change among older cohorts. Thus, even if change is quite strong among entering cohorts, we may not see a change in the overall distribution for many years. In our projections we suggest what declines in segregation might be expected to occur in this decade if change continued at its previous rate. Our projections suggest the range of a 4 to 20 percentage point decline in the index of segregation as long as rates of change are maintained. Even then, it would take between 25 and 100 years for the work force to reach complete equality, or near it.

What Are the Implications of Relying on Changes in the Occupational Distribution to Reduce the Male-Female Earnings Gap?

In light of these declines in occupational segregation, it is surprising to find that the earnings gap has not narrowed. As women move into nontraditional occupations, which have been shown to pay more than traditionally female occupations, their wages should increase. It is possible that wages of younger women are increasing, but wages of older women are declining as more of them crowd into the female sector. Another possibility is that of "job title inflation," where young women attain fancy job titles, but none of the compensation and other privileges usually associated with such jobs.

Lest we be tempted to think that it is inevitable that women be paid only 60 percent of what men are paid, a look at the figures for other industrialized nations can put that to rest. According to Ferber (1984), the hourly wages of women working full time, year round, as a percentage of the earnings of men in industry, rose from 75.9 to 93.9 percent in Australia between 1972 and 1981, from 83.8 to 90.1 percent in Sweden, from 77.9 to 85.8 percent in Denmark, and from 59.3 to 68.8 percent in the United Kingdom at the same time as ours hovered around the 60 percent mark.

Even if desegregation is reducing the wage gap among younger cohorts as these women move into nontraditional jobs, the vast majority of women currently in the labor force in traditionally female jobs have seen no benefit from this so far. Based upon the fact that there are women in traditionally female jobs who had little or no opportunity to choose to be elsewhere and whose wages are lower than they would be in the absence of discrimination, an argument can be made for comparable worth.[27] Even if the economy were made entirely free from discrimination (i.e., if the Equal Employment Opportunity Commission were to cause all discrimination to cease at this very moment), there would still be a degree of crowding among older generations who made their occupational choices before the opening of options in nontraditional jobs. Their wages should rise somewhat because younger women are crowding these occupations less. Although comparable worth interferes with the natural functioning of the market in setting wages, so does discrimination. Moreover, discrimination leads to a misallocation of resources, if for example, women who could have been surgeons work as nurses. Thus, comparable worth may be justified as undoing what discrimination did to these women. Young women may still choose to be secretaries more than young men, but they would earn a higher rate than the one that is determined by discrimination.

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[27] My definition of comparable worth is equal pay for work of equal value.

Summary and Conclusions

The relationship between occupational segregation and the male-female earnings gap is based upon the empirical finding that traditionally male occupations pay more than other occupations. It is because women are segregated into low-wage jobs that their earnings are lower than men's earnings. How did this come about? One persuasive explanation is that discrimination against women in certain occupations caused them to become crowded into other occupations, and the crowding lowers the wages. A competing explanation is that women choose to enter these low-paying occupations because it is better for them, given plans to participate intermittently in the labor force over the life cycle. Empirical evidence on these two competing theories tends to support the former and tends to be mixed on or inconsistent with the latter.

Title VII is well designed to reduce employment discrimination and thus to reduce occupational segregation by assisting women to move into the nontraditional, higher paying jobs. To the extent that this removes barriers that existed previously, it should reduce crowding. Empirical evidence shows that Title VII has been effective in reducing occupational sex segregation and in narrowing the male-female earnings gap. Although the law has been effective, it has made only a dent in the gap. If it continues to be enforced as during the early seventies, it would take 75-100 years for occupational segregation to be eliminated.

Declines in occupational segregation during the seventies were substantially larger than in the previous decade. Most of the decline was concentrated in the white-collar occupations, among the college educated, and among the younger cohorts of women. The proportion of occupations that were male dominated dropped, although it is still a majority of occupations. Counterbalancing these trends was the continued influx of women into the clerical occupations and the relative absence of any change in the blue-collar occupations, especially the high-paying crafts jobs. Among younger women, aspirations may have changed, and college majors have become significantly less segregated during the seventies. However, as long as older cohorts continue to be highly segregated (a likely prospect), the labor force as a whole will not reflect these changes for many years.

With all of these changes, one wonders why the earnings gap has not narrowed. Obviously, some forces must be working to cause it to widen, for EEO laws have caused it to narrow. The conclusion that the high proportion of the older cohorts of women that continues to crowd traditionally female occupations depresses wages below the nondiscriminatory rate provides the basis of an argument for comparable worth.

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Women in the Economy: Perspectives on Gender Inequality

By Solomon William Polachek*

Variations in earnings among individuals are more the norm than the exception. Hence, the analysis of earnings distribution is the subject of numerous research efforts. Although it is recognized that valid economic arguments exist for earnings variations, it is problematic to explain why certain demographic groups, such as women, blacks, or Hispanics, tend to fall in the lower tail while groups such as Jews, Catholics, and Asians are prone towards the upper ends of the spectrum.[1]

If these patterns emerge because of unequal opportunities caused by unfair hiring practices, then the economy is failing to fully and appropriately utilize highly productive employees. Macroeconomic inefficiencies thereby come about, providing a justification for governmental intervention. On the other hand, if unequal economic outcomes result from differing individual choices despite equal opportunity, then governmental intervention could lead to a distorted allocation of resources and inefficiencies within the economy. In this case, rather than helping disadvantaged groups, productive efficiency is hampered so that in the long run all end up suffering. Thus, the comprehension of demographic differences in economic success is important.

Data indicate that women are relegated to a secondary role. Relative to men, women receive lower wages and are employed in more menial occupations. Perhaps because of these obviously unequal economic outcomes, the subject of gender differentials has become an important topic not only for researchers, but for policymakers as well.

This paper examines gender differences within the U.S. economy. First, to set the stage, data will be presented. Second, one possible explanation known as the "crowding/occupational segregation" hypothesis will be presented and shown *not* to fit the data. Third, the human capital model, the only viable approach for which there is more than adequate empirical support, will be presented. Finally, a prognosis will be given, and policies promoting sexual equality will be discussed.

The Symptoms: Facts Detailing Gender Differences Within the Economy

Despite the increased role of women in the economy, women's economic position has not been comparable to men's, nor do women appear to be rapidly approaching parity. No matter what the source, data on both earnings and occupational achievement leave no doubt that women have a

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* Professor of Economics, State University of New York, Binghamton.

[1] Barry Chiswick, "The Earnings and Human Capital of American Jews," *Journal of Human Resources* (Summer 1983), 313-36, and "An Analysis of Earnings of Asian-American Men," *Journal of Labor Economics* (April 1983).

Table 1
Gender Differences in Occupational Distribution

	1960[1]		1970[2]		1975[2]		1981[2]	
	Male	Female	Male	Female	Male	Female	Male	Female
Professional and kindred workers	9.7	10.5	14.0	14.5	14.6	15.7	15.9	17.0
Farmers and farm managers	5.3	3.4						
Managers, officials, and proprietors	9.6	6.1	14.2	4.5	14.0	5.2	14.6	7.4
Clerical and kindred	8.2	23.2	7.1	34.5	6.6	35.1	6.3	34.7
Sales	7.5	8.9	5.6	7.0	6.1	6.9	6.1	6.8
Craft, foreman, and kindred	18.6	7.7	20.1	1.1	20.4	1.5	20.7	1.9
Operatives	19.5	17.1	19.6	14.5	17.5	11.5	16.6	10.4
Private household	0.4	2.6						
Service workers	6.4	10.4	6.7	21.7	8.6	21.6	8.9	19.4
Farm laborers	2.9	1.8	5.3	1.8	4.8	1.4	3.9	1.3
Laborers	6.5	2.5	7.3	0.5	7.4	1.1	7.1	1.2
Occupation not reported	5.4	5.9						

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[1] White males and females: U.S. Census, 1960, table 83.
[2] White and black males and females: U.S. *Statistical Abstract 1983*, table 648 (as taken from U.S. Bureau of Labor Statistics, employment and earnings monthly and unpublished data).

secondary economic position (not only in the U.S. but in all countries for which data exist).

Women are segregated into what some have called "women's jobs." Table 1 depicts the relatively unequal occupational distributions for 1960 to 1981. But even this table cannot detail the more subtle sex differences omitted by broad occupational categories. Whereas women seem to be sufficiently represented in prestigious occupations such as the professional category, this statistic is somewhat misleading. Professional employment includes teachers, nurses, and other relatively low-paying women's jobs within the professional category. Thus, looking at relatively broad occupations is not always satisfactory in measuring female economic success. For this reason earnings data are often used to obtain more information on the relative position of women.

Table 2 contains earnings data. Gender differences in economic well-being are clear. Using both median and mean earnings, women receive compensation (not adjusted for hours of work) at a rate of only 47 percent that of men. This figure is down from 48 percent in 1960. Data on full-time, year-round workers yield similar though smaller differentials. Again, the time trend indicates no improvement of women's economic position. In fact, no matter which way the data seem to be cut, women end up with lower relative earnings.

As indicated, explaining why women seem relegated to an inferior economic position is important. The underlying reasons yield valuable insight into understanding women's role in the economy. In addition, the reasons may be useful in devising policies to foster greater sexual equality in the future.

An Assessment of the Crowding/Occupational Segregation Hypothesis

Given the existence of both gender wage and occupational differences, there is a natural inclination to hypothesize a link between these two strands of data. In fact, the earliest theories of gender differences postulate such a relationship between wages and occupational structure. With roots at least as far back as Edgeworth (1927) and Rathbone

Table 2
Gender Differences in Income and Earnings

Sex Differences in Earnings by Year for the U.S.

	Male	Female	% of male
1950[1]	2434	1029	42.3
1960[2]	4532	2175	48.0
1970[2]	7319	3434	46.9
1980[3]	14536	6830	47.0

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[1] Median income obtained from U.S. Census Summary, 1960, table 97.
[2] Computed from U.S. Census 1/1000 sample.
[3] Computed from Current Population Survey (CPS) sample.

Median Money Income by Race and Sex (for persons 18 years old and over)

	Male			Female			Female as a percent of male		
	Total	White	Black	Total	White	Black	Total	White	Black
1975	9,426	9,891	5,967	3,642	3,703	3,250	.39	.37	.54
1980	14,296	15,117	8,983	5,749	5,819	6,114	.40	.38	.68

Median Weekly Earnings of Full-Time Wage and Salary Workers

	Male			Female			Female as a percent of male		
	Total	White	Black	Total	White	Black	Total	White	Black
1970	151	157	113	94	95	81	.62	.61	.72
1975	221	225	173	137	138	130	.62	.61	.75
1976	233	238	187	145	147	137	.62	.62	.73
1977	252	258	201	156	157	146	.62	.61	.73
1978	271	278	218	168	167	157	.62	.60	.72
1979	298	305	232	186	187	174	.62	.61	.75
1980	322	329	247	204	206	189	.63	.63	.77
1981	347	356	271	224	226	210	.65	.63	.77

Source: U.S. Statistical Abstract 1983, table 671.

(1917), this theory has become known as the occupational segregation hypothesis.[2] When applied to gender differences, the claim is that certain occupations are set aside predominantly for women, although men are free to choose the occupation of their choice. The result is that women are forced into menial occupations, thereby increasing the supply of female workers in female jobs and thus depressing women's wages. The supply to male occupations is diminished, causing wage increases. Sometimes known as the "crowding hypothesis," because women are crowded into a smaller number of occupations, occupational segregation is consistent with both a lower wage rate for women and a concentration of women in the more "menial" jobs—the two labor market patterns already observed.

Given this theoretical link, the crucial question, of course, is whether empirical support exists for such a hypothesis. That is, does the observed occupational segregation affect observed sex differences in earnings?

The procedure to test the crowding hypothesis is to compute the extent to which differences in occupational distributions can explain wage differentials. This entails assessing how male and female wages would change if occupational distributions were reversed.

One procedure is to create an index of female earnings had they a male occupational distribution, and male earnings had they a female occupational distribution.

From this index (table 3) one is then able to determine the effect of occupational segregation on wage differentials. If occupational segregation were an important explanation, then average female earnings would rise to male levels, if females had a male occupational distribution. On the other hand, if "crowding" were a weak hypothesis, only a small portion of the wage gap would be explained.[3]

To compute the explanatory power of occupational segregation, we calculate the change that would occur in wages if male and female occupational distributions were interchanged. Two measures exist: (1) $Y_{FM} \equiv$ average female earnings if women were given a male occupational distribution, and (2) $Y_{FM} \equiv$ average male earnings if men were given a female distribution. The average of these two is the degree to which these measures close the original gender earnings gap, and represents what we call the explanatory power(P). These figures are given in table 3.

It is apparent that occupational segregation is, at best, only moderately important in explaining gender differences in earnings. Only between 17 and 21 percent (for annual 1960 and 1970 earnings) or 9 and 12 percent (for hourly 1970 and 1960 wages) can be explained by occupational segregation. For narrower segments of the population, occupational segregation explains virtually none of the male-female wage differential. In fact, for the married-once-spouse-present or single-never-been-married groups, wage differentials are widened.

As shall be shown, these results outlining the insignificance of occupation are consistent with other studies. Nevertheless, the importance of occupational segregation as a determinant of wage differentials in part depends on how jobs are grouped into occupations. This problem arises because there are no natural boundaries that can be applied in defining an occupation.

As an illustration, one merely need consider an economy with an occupational classification scheme categorizing all persons into one and only one occupation. Obviously, in such an economy only intra-occupational wage differentials exist. Contrast this to an economy in which each person is considered to have a different occupation. Here all wage differentials are attributable to occupations, and hence interoccupational wage differentials explain all gender differences. In short, the importance of occupational segregation would be determined solely by the definition of occupation. The problem, then, of assessing the importance of occupational segregation becomes philosophical. Just what is the appropriate definition of an occupation?

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[2] In this section, I concentrate on the occupational segregation/crowding model as a determinant of gender wage differences. Other theories such as Marxian-based theories or market power (e.g., monopsonistic) theories have also been exposited. None of these latter theories fit the data well. I concentrate on the crowding/occupational segregation hypothesis because it seems to have received the most attention in the literature.

[3] It is also possible that giving females a male occupational distribution would widen wage differentials. Such a case would be one in which female occupational structure was already optimal.

Table 3
The Impact of Occupational Segregation on Gender Wage Differentials

	Annual earnings		Hourly earnings		Married-once-spouse-present		Single-never-been-married	
	1960	1970	1960	1970	Annual earnings	Hourly earnings	Annual earnings	Hourly earnings
Mean female earnings	$2,391	$4,197	$1.81	$4.88	$2,332	$1.82	$2,483	$1.90
Mean male earnings	4,941	9,226	2.63	3.28	5,600	2.78	2,519	2.06
Mean female earnings assuming a male occupational distribution	2,707	5,241	1.87	3.57	2,341	1.72	2,226	1.84
Mean male earnings assuming a female occupational distribution	4,373	8,200	2.49	4.88	5,160	2.71	2,800	2.27
	.12	.21	.07	.18	.003	−.10	−7.28	−.38
	.22	.20	.17	0.0	.13	−.07	−7.94	−1.31
	.17	.21	.12	.09	.07	−.09	−7.61	−.84

Source: Computed from 1960 and 1970 U.S. Census Public Use Sample.

Table 4 contains results reported by Treiman and Hartmann,[4] in what seems to be a replication of table 3 purportedly using 1980 census data. When using 222 occupational categories, between 11 and 19 percent of the total population's earnings differentials can be explained by gender differences in occupational distribution. (This should be compared to the 12 to 21 percent explanatory power to table 3 that uses about 195 occupational categories.) Even when using 479 occupations, far more than any other study, only between 35 and 39 percent of the wages can be attributed to segregation. Still this computation is biased.

First, too many occupational categories reflect too narrow a distinction between occupational categories. If this is the case, then detailed occupational categories would become synonomous with success in one's job, which is precisely the meaning of wages in the first place. Second, the wages used in creating the indices of tables 3 and 4 are unadjusted for personal attributes. Only "raw" mean occupational wages are used. No adjustment is made for training requirements or for individual differences in personal attributes such as education, job experience, or other factors that can affect on-the-job productivity.

For this reason, an alternative approach can be used to assess the impact of occupational segregation. The procedure is to classify occupations in terms of their gender composition. Percentage female (PF) is most regularly used. The question then becomes: Holding personal and productivity attributes constant, do occupations exhibiting a greater proportion of females pay lower wages?

To answer this question, a regression is run using wages as the dependent variable. As independent variables, individual and labor market adjustment variables are used. In addition, the PF variable is included. An insignificant PF would imply that an occupation's gender composition is not a statistically important determinant of wages, thereby refuting the occupational segregation theory. However, even a statistically significant PF coefficient need not imply that occupational segregation is important. For although statistically significant, the PF variable

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[4] Donald J. Treiman and Heidi I. Hartmann, eds., *Women, Work and Wages: Equal Pay for Jobs of Equal Value* (Washington, D.C.: National Academy Press, 1981).

Table 4

Decomposition of Earnings Differentials Between Men and Women Into Within-Occupation and Between-Occupation Components, for Successively More Detailed Occupational Classifications (1980 Census Data)

	Census Major Group Classification (N = 12)		Intermediate Classification (N = 222)[a]		Census Expanded Occupational Classification (N = 479)[b]	
Female Earnings as a Percentage of Male Earnings[c]						
(1) Male average earnings (annualized)[d]	100		100		100	
(2) Average earnings of women if they had same income as men in each occupation[e]	96		93		85	
(3) Average earnings of men if they had same income as women in each occupation[f]	63		68		70	
(4) Female average earnings[d]	62		64		63	
Decomposition of Earnings Differentials[g]						
	(A)	(B)	(A)	(B)	(A)	(B)
Due to occupational segregation	3	11	11	19	35	39
Due to within-occupation pay differences	97	89	89	81	65	61
TOTAL	100	100	100	100	100	100

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[a] Aggregation of the 1973 census detailed occupational classification to a minimum of 1,000 men and 1,000 women in each occupational group (see Treiman, 1973, for details).

[b] The classification used in detailed occupational tabulations published in U.S. Bureau of the Census (1973). Formed by disaggregating selected occupations by industry and class of worker. Only data for occupations with wage and salary earnings reported are used here.

[c] Earnings are annual wage and salary earnings adjusted to account for estimated hours worked per year. Annualized earnings = annual earnings × (2,080/[hours worked last week × weeks worked last year]) since 2,080 = 40 × 53 = full-time year-round work. Data for each occupational category are either the mean or the median. The use of the median rather than the mean introduces some error into the algebraic manipulations; it is, however, very minor.

[d] Weighted average of median earnings for occupational categories.

[e] Weighted average, with female frequencies applied to male median earnings.

[f] Weighted average, with male frequencies applied to female median earnings.

[g] The portion of the gap due to occupational segregation is computed two ways: (A) = [(3) − (4)]/[(1) − (4)]; (B) = [(1) − (2)]/[(1) − (4)]. The portion of the gap due to within-occupation earnings differences is, of course, the complement of the portion due to occupational segregation.

Source: U.S. Bureau of the Census, 1973: Table 1, and the "Occupational Characteristics Summary File" computer tape (see Treiman, 1973, for a description).

Source: D. Treiman and H. Hartmann, *Women, Work, and Wages: Equal Pay for Jobs of Equal Value* (Washington, D.C.: National Academy Press, 1981), pp. 34-35.

may explain only a small portion of the gender wage differential.

Perhaps the first to apply such a framework is Victor Fuchs.[5] For this reason, I present his results in table 5 (along with his description of the variables and findings). In panel A (Fuch's table 6) the PF (percentage female) variable is not significant.[6] In panel B (Fuch's table 7) there is statistical significance, but PF explains only 6 percent of the male-female wage gap.[7]

Replication of this technique was used by Paula England[8] in an article attempting to refute the human capital approach. Her results are given in table 6. Instead of using industrywide (or occupationwide) data, as did Fuchs, she uses data on individuals as reported in the National Longitudinal Survey. Even taking England's results as given,[9] the earnings gap attributable to sex differences in occupational structure ranges between 3.2 and 9.6 cents per hour.[10] Given a gender wage differential of about $2.07, *at best, occupational segregation explains only* 4.6 percent of the gender gap in wages.

If occupational segregation fails to explain gender wage differentials, then what can explain them?

The Human Capital Approach as a Unified Theory of Gender Differences in Economic Well-Being

Gender Differences by Demographic Group

The crowding/occupational segregation theory deals only with the aggregate raw wage differential. It fails to consider other aspects of demographic differences in wages: for example, why such factors as marital status, life cycle, and family characteristics so greatly affect the size of male-female differentials.

As an illustration, consider table 7. It contains gender income ratios from 1960 to 1970. As can be seen, the ratio varies widely by marital status. Never-married women seem to have complete wage parity with never-married men. In fact, single-never-married women often have a wage advantage.[11] On the other hand, the wage gap for married, separated, divorced, and widowed men and women is extremely large. On the average, married-spouse-present women earn less than half the earnings of married-spouse-present men. The other marital status groups fall somewhere in between the married-spouse-present and the single-never-married group.

Other demographic patterns also emerge. For example, number and spacing of children affect the size of the gender wage differential. Parents with large families, with children spanning broad age bands, exhibit the largest wage differentials.

The life cycle, too, is important. Only small gender wage differentials occur in the early work phases, yet expand over the working life until about age 40, then decline. For men and women between 18 and 25, the wage ratio is about 80 percent. For 30–40-year-olds, this ratio decreases to less than 50 percent and eventually rises to about 65 percent for the 55–64-year age category.

Each of these patterns implies that the gender gap in wages is not uniform. Were the demand-type, crowding/occupational segregation theory to be valid, then it would need an explanation for these demographic differences in age differentials. To my knowledge, none exists within the context of this theory. Thus, another explanation is needed. The best is the human capital approach.

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[5] Victor Fuchs, "Differentials in Hourly Earnings Between Men and Women," *Monthly Labor Review*, 94 (May 1971), 9–15.

[6] The t-statistic is less than 1.96 in absolute value.

[7] The total gender wage gap in Fuch's data is $1.18. (Men earn $2.84 per hour while women earn $1.66.) Men are in occupations that are 67 percent male. Women are in occupations that are about 33 percent male. The difference, 34 percent (67–33 = 34), multiplied by the coefficient –.002 (or –.0019) yields (0.07) the dollar wage change that would occur if males were to change from a typical male to a typical female occupation (or females from typical female to typical male occupations). The division of .07 by 1.18, the dollar differential, yields the percentage change in wages that would occur (5.9 percent).

[8] Paula England, "The Failure of Human Capital Theory to Explain Occupational Sex Segregation," *Journal of Human Resources* (1982).

[9] My replication differs from hers. One reason may be a different sample size, perhaps attributable to her inclusion of single females in the regressions.

[10] Computed as the product of $(PF_{female} - PF_{male})$ and $\frac{\alpha W}{\alpha PF}$, where PF_{female} the mean percent female of the typical occupation among women, PF_{male} the mean percent female of the typical occupation among men (both computed as the mean PF score in a male versus female sample), and $\frac{\alpha W}{\alpha PF}$ is computed from the England regressions. In these regressions $\frac{\alpha W}{\alpha PF}$ varies between (– .03 and – .01). It estimates $(PF_{female} - PF_{male})$ to be 3.2. (Females are in jobs that are 66 percent women while males are in jobs that are 34 percent women. Thus, 66 – 34 = 32, making 10 percent equal to one unit as her regressions indicate yield $(PF_{female} - PF_{male})$ to be 3.2.)

[11] See S. Polachek, "Differences in Expected Post-School Investment as a Determinant of Market Wage Differentials," *International Economic Review* (1975), 451–70, and S. Polachek, "Potential Biases in Male-Female Discrimination," *Journal of Human Resources* (1975), 205–29, for a more detailed analysis of the relationship of marital status and earnings.

Table 5:
Fuch's Results on Occupational Segregation
Results of regressing female average hourly earnings relative to male on selected variables across 46 industries

Item	Simple regression			Multiple regression ($\hat{R}$ – ≥38)	
	$\hat{R}$	Regression coefficient	t Value	Partial regression coefficient	t Value
Female "expected" relative to male	0.674	2.19	9.70	1.63	2.76
Percent in government	.382	.254	5.36	.145	4.70
Percent female	.015	–.136	–1.30	–0.52	–1.05
Percent unionized[1]	–.021	–.042	–.28	.023	.38
Establishment size	–.021	.018	.29	–.012	–.36
Employment growth rate	.006	7.33	1.13	4.82	1.68
Age profile[2]	.240	–37.2	–3.90	–14.1	–2.64

[1] The unionization variable is limited to the range 20 to 60 percent. All industries below or above that range are set equal to 23 or 63 percent, respectively.

[2] Age profile = $\frac{\text{Actual expected earnings, white males aged 45-54}}{\text{Actual expected earnings, white males aged 20-34}}$

NOTE: Each observation weighted by number of males multiplied by number of females, all divided by number of males and females.

Regressions of hourly earnings[1] across 46 industries, by sex

Item	Males ($\hat{R}^2$ = .894)		Females ($\hat{R}$: = .936)	
	Partial regression coefficient	Standard error	Partial regression coefficient[1]	Standard error
"Expected" earnings[1]	[2]1.8.5	0.118	[2]1.54	0.13
Percent in government	[3]–.0013	.0004	.0008	.0006
Percent female	[3]–.0020	.0006	[3]–.0019	.0008
Employment growth rate	[2]–.112	.039	.0229	.041
Percent unionized[4]	[2].0060	.0009	[2].0060	.0011
Establishment size[4]	[2].0009	.0004	[2].0012	.0005
Age profile	[2].367	.080	[3].147	.060

[1] Dependent variable and "expected" earnings in natural logarithms.

[2] Statistically significant at the 1-percent level on a 2-tail test.

[3] Statistically significant at the 5-percent level on a 2-tail test.

[4] These variables refer to industry as a whole and are not specific to sex.

[5] The unionization variable is limited to the range 20-60 percent. All industries below or above that range are set equal to 20 or 60 percent, respectively.

In the regressions reported in table 6, the dependent variable is female hourly earnings as a percentage of male. The most significant independent variable, in either the simple or multiple regressions, is female "expected" earnings as a percentage of male. This tells us that the pattern of the differential across industries is highly correlated with the pattern of differences in mix of schooling, age, and color. Furthermore, we see that the differential is *not* related to extent of unionization or size of establishment. These results tend to support the view that labor markets are reasonably competitive. If employer discrimination was a major factor in the sex differential, we might expect that it would vary across industries in an erratic fashion or be related to such institutional variables as unionization and establishment size.

The government variable is significant as expected. The partial regression coefficient of 0.140 says that, other things equal, the female earnings relative in an industry composed entirely of government employees would be 14.6 percentage points higher than in any industry completely in the private sector. Table 7 shows that government employment tends to depress the earnings of men while raising the earnings of women.

The age profile variable is also significant. This is a measure of the extent to which earnings of white males rise with age, and I interpret it as revealing the extent to which there is labor-market-related post-school investment in human capital. The sex differential in earnings is higher in industries with steep age profiles because men are more likely than women to undertake such investment.

The higher the percentage of female employment the lower are the earnings, but this is true for men as well as women. There is no support for the hypothesis that men dislike working in the same industries as women and must, therefore, be given special compensation to do so. (Fuchs: pp 13–14)

Table 6
Regressions on White Females' Hourly Earnings

	Equation (4)	Equation (5)	Equation (6)	Equation (7)
Constant ($/hour)	.46	.99	.48	.41
Regression coefficients (on $/Hour)				
S: Schooling (years)	.15*	.14*	.15*	.15*
Y: Years since school	.02*	b	b	b
H: Hometime (years)	−.04*	b	−.02	−.02*
P: % hometime (10% = unit)ᵃ	b	−.09*	b	b
E: Employment experience (years)	b	b	.02	.02*
F: Occupation's % female (10% = unit)ᵃ	−.03*	−.04*	−.03	−.02*
$H \times F^a$	(+).00	b	(+).00	b
$P \times F^a$	b	.03	b	b
$E \times F^a$	b	b	(+).00	b
R^2	.16	.16	.16	.16
N	1877	1877	1877	1877
Mean hourly earnings	2.07	2.07	2.07	2.07

Source: P. England, "The Failure of Human Capital Theory to Explain Occupational Sex Segregation," *Journal of Human Resources*, Summer 1982.

The Rudiments of the Human Capital Model

The human capital theory links occupations and wages to lifetime labor force participation and the division of labor within the family. It is thus able to provide a consistent explanation for each pattern observed in the data.

1. Figure 1 depicts sex-marital status labor force participation patterns for the United States as a whole. On the horizontal axis is age. On the vertical axis is the labor force participation rate, indicating age-specific labor force participation rates. Married men, by far, have the highest labor force participation. Married women have the lowest, peaking at about 43 percent between ages 23 and 48. The drop at around age 30 reflects labor force intermittency related to childbearing. The gap between single men and single women is the most narrow. Single-never-married males and females have roughly similar lifetime work behavior patterns. Figure 2 emphasizes sex differences by race. The sex difference between blacks and whites is somewhat less prevalent, but the same general pattern of higher male relative to female participation emerges.

Despite the extreme sex differences in lifetime work, there are indications of some convergence, as female participation seems to be secularly rising. These secular trends are apparent in figure 3. Figure 3 also accentuates troughs in labor force behavior during the 25-year age bracket, reflecting the intermittency, or the dropping out of the labor force by women, due to childbearing and rearing.

2. The Relationship Between Lifetime Labor Force Participation and Market Earnings

One cannot help but note the strong similarities that exist between earnings patterns and patterns of lifetime labor force participation. For example, take single-never-married men and women. Single-never-married men and women exhibit the smallest earnings differentials as well as the smallest differences in lifetime labor force participation. The widest lifetime labor force participation differences exist among the married-spouse-present, the group with the widest wage differentials. *In short, overall gender wage differentials are related to the differentials in lifetime labor force behavior. Those with the greatest levels of lifetime labor force participation have the highest wages, while those with the least lifetime work*

Table 7
Percent Income Ratios

	United States		
	1960[1]	1970[2]	1980[3]
Married spouse present	40.0%	38.4%	38.1%
Married spouse absent	57.0	55.7	54.7
Widowed	61.9	60.8	52.6
Divorced	74.2	63.6	62.0
Separated	54.8	55.6	48.9
Never married	104.2	97.6	[4]

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[1] Computed from 1960 U.S. Census 1/1000 sample.
[2] Computed from 1970 U.S. Census 1/1000 sample.
[3] Computed from Current Population Survey.
[4] Not computed at this time.

behavior earn the least. For the purposes of this paper, the theoretical underpining behind this relationship is not crucial though a rigorous development is contained in Polachek (1975a, 1975b). All that is important is that wages *at any point in time* are related to the amount and continuity of *past as well as expected* future labor market experience.

The relationship of wages and labor market experience is important. It implies that the earnings power of women is directly related to lifetime labor force experience. Women with the greatest experience levels earn the most. Also, young women with the greatest *expectations* of full-time work experience choose jobs with the greatest earnings potential.

Table 8
Earnings Equations for Married Males and Females

	coef	t-value	coef	t-value
Constant	−1988.15	−12.42	1577.67	10.28
Education				
Experience				
Experience^2				
Hrs. worked/yr.	1.027	32.57	1.15	36.64
Region	637.70	14.17	751.30	15.90
Size	214.16	3.78	173.85	2.92
Nativity	22.24	0.27	76.92	0.89
Sex	−80.30	−1.07	−2533.35	−40.36
Yrs. married	25.73	11.90	28.89	12.71
NCH 6	87.58	3.47	−3.39	−.13
NCH < 6-11	70.34	2.89	242.50	9.56
NCH 12-17	31.59	1.14	206.49	7.15
NCH > 18	−26.47	−.42	−21.58	−.33
Exp. capital	0.076	54.30		
R^2	0.38		0.32	

Dependent Variable: Earnings—2nd value in column is t-statistic. Population: white married-once-spouse present males and females not employed by the government. No. Obs. = 28,065; See Table 1 for variable definitions.
Additional variables are as follows:
Yrs. married = number of years since marriage
NCH < 6 = number of children less than six years
NCH 6-11 = number of children between 6 and 11 years of age
NCH 12-17 = number of children between 12 and 17 years of age
NCH > 18 = the existence of children over 18 in the household
Adjustment made for occupation and industry.

Source: S. W. Polachek, "Differences in Expected Post-School Investment as A Determinant of Market Wage Differentials," *International Economic Review*, June 1975.

3. An Assessment of the Human Capital Hypothesis: Intermittency and the Wage Gap

Intermittency can be illustrated graphically. Although there exists variation in the frequency and periodicity of intermittency, a typical pattern is illustrated in the upper portion of figure 4. The point S reflects the year in which one graduates from school. Upon graduation one enters the labor force and works for e_1 years, drops out of the labor force for H years, and returns to work for e_2 years.

The effect of intermittency on wages is illustrated in the lower portion of figure 4. O″H represents an age earnings profile for the typical individual exhibiting full lifetime labor force participation. It reflects earnings capacity at each level of experience and, thus, rises continuously with age.

Those labor market participants with intermittency have a different profile. First of all, initial labor market earnings (the vertical intercept) are smaller (point O). Second, the slope with respect to initial experience (e_1) is smaller (rising to level A instead of level G.) Third, earnings are essentially zero during the period (H) when one is out of the labor force. And fourth, and perhaps most interesting, the reentry wage (B), after a period of intermittency, is lower in real terms than the wages at the point just prior to leaving the labor market (A). The total loss in wages caused by intermittency can be expressed as segment (BK), the difference between reentry wages (B) and the wage one would have received had she been in the labor force fully. This gap can be divided into three segments: (1) BC represents the direct depreciation of skills due to atrophy, (2) CD reflects the lost wages due to lost seniority, and (3) DK reflects the extra wage one would have obtained with initially high expectations for labor force participation. This latter gap DK is composed of two parts, DG and GK. The gap DG reflects the additional earnings attributable to extra on-the-job training that would be obtained by those with expectations of complete labor force continuity. Similarly, the gap GK reflects the additional earnings attributable to extra schooling (including the study of more market-oriented fields) for those who plan to specialize more in a career than home activities.

Statistical analysis (multivariate regression) is typically used to assess the magnitudes of these effects. However, most current human capital analyses estimate (1) and (2) above but neglect to compute (3).[12]

The procedure can be illustrated using figure 4. The angles (α_1 and α_2) reflect the real growth in wages during the work segments e_1 and e_2. The angle δ reflects the depreciation in earnings power related to intermittency. Typically the α coefficients vary from about 1.2 to 4.0 percent, depending upon the population subgroup under study. The δ coefficient ranges from about –0.5 to –2.0 percent. These figures imply that earnings atrophy at between 0.5 and 2 percent per year when one drops out of the labor force, while they appreciate during work segments at between 1.2 and 4.0 percent. In general, the higher one's education and the more skilled one's job, the greater magnitude of these coefficients.

The typical woman (from the NLS data) drops out of the labor market about 10 years. Taking this figure for H as accurate, one can compute the distance BD, a lower bound estimate of the difference in earnings between the intermittent and the continuous worker. Taking typical *a* and *o* estimates of .015 and –.005, respectively, one can compute the difference between B and D to be 20 percent. Even when omitting consideration recalling that the gender wage gap averages slightly over 40 percent, we find that this computation explains about 50 percent (the 20 percent explained wage gap divided by the 40 percent total wage gap) of the male-female wage differential.

One study that incorporates all three aspects of the wage gaps is Polachek (1975).[13] The results of this study are illustrated in table 8. Two columns are presented. The relevant of these coefficients are the values obtained for "SEX," a dummy gender variable. The coefficient (–2533.35) represents the dollar difference in earnings using the 1960 U.S. census 1 in 1,000 sample. The (–80.30) coefficient represents the male-female wage gap when appropriate account is

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[12] Typical studies that use cross-sectional regression techniques are Mincer-Polachek (1974), and Corcoran-Duncan (1979). Typical studies using panel data are Mincer-Polachek (1978), Mincer-Ofek (1982), and Corcoran-Duncan-Ponza (1983).

[13] Another possible exception is the study by S. Shapiro and S. Sandell, *Journal of Human Resources* (Summer 1980), that looks only at the difference in slope between line segments OA and OG.

Table 9
Earnings Equations Stratified by Sex

			Males			
Constant	3467.39	18.56	386.55	2.09	156.47	0.77
*Mar. Stat.	3001.82	14.71			534.65	2.64
Exp. Cap.			0.1102	32.51	0.1059	28.20
R^1	0.0640		0.2503		0.2520	
No. Obs.	3167		3167		3167	
			Females			
Constant	1796.61	23.38	1956.56	16.18	3142.69	50.31
*Mar. Stat.	−624.73	−8.03			−148.26	−1.71
Exp. Cap.			0.0388	13.92	0.362	11.35
R^1	0.0627		0.0762		0.0774	
No. Obs.	2350		2350		2350	

Key

Dependent Variable: Earnings (wage, salary, and self-employment income)
Mar. Stat.: dummy variable (1 = married, 0 = single)
Exp. Cap. = expected capital stock
Second value in each column is t-statistic.

Source: S. W. Polachek, "Differences in Expected Post-School Investment as a Determinant of Market Wage Differences," *International Economic Review*, June 1975.

taken of life-cycle differences in labor force expectations. As can be seen, 97 percent (2533.35–80.30)/2533.35 of the earnings differential can be explained when life-cycle expectations are fully incorporated.

To lend credence to these results, a similar computation is performed looking, not at gender differences, but at marital status differences within a given sex group. These results are contained in table 9. Here 82 percent of the $3,000 earnings premium married males receive can be explained by married-single differences in life-cycle labor force participation. Likewise, about 75 percent of the $625 premium single women obtain can be explained by lifetime labor force participation.

In short, even when using the most primitive models, the human capital approach that links lifetime labor force participation to earnings in the marketplace explains almost 50 percent of the gender difference in earnings. When using statistical specifications that more accurately reflect the impact of expected intermittency on initial schooling and job choices, close to 100 percent of the wage gap can be explained. Even the skeptic of the human capital framework must note that even the crudest of the human capital models explains more of the wage gap than the most sophisticated of the occupational segregation models. Also, as shall be illustrated, the power of the crowding/occupational segregation hypothesis is overstated because it turns out that human capital theory helps explain occupational segregation as well.

4. Human Capital Theory as a Determinant of Occupational Segregation

Not everyone believes that human capital theory can explain occupational differences. First, though no rigorous empirical tests exist, Marxian-type economists such as Reich, Gordon, and Edwards, or Vietorisz and Harrison, believe that the dual labor market evolved through a historical process of "the transition from competitive to monopoly capitalism"[14] by means of a "positive feedback that

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Though done independently, Polachek (1979) uses an approach similar to Sandell and Shapiro and obtains similar results.

[14] Reich et al.: 362.

connects technical change, labor productivity, and the money wage bargain in the labor market."[15] Second, crowding theories claim firms blatantly discriminate in the hiring and promotion process, though, here again, no empirical evidence supports such a contention. Finally, economists such as Sandell (1972), Landes (1977), and Polachek (1975) take a human capital viewpoint, namely, that "people with less expected time in the labor force will train less, and will enter those occupations in which less training is required."[16]

One study by Beller (1982) attempts to determine how much of existing occupational segregation is attributable to human capital differences and how much is attributable to discriminatory hiring practices. Beller employs regression analysis, specifying an index of job type as the dependent variable and human capital stock, some purported measures of discrimination, and additional controls as the independent variables. Simple comparison of the magnitudes of the discrimination and human capital coefficients are taken to yield a direct measure of how much each factor contributes to the likelihood that any individual is employed in a "male" occupation.

The problem, however, is that Beller's indicator of discrimination, namely, industrywide equal employment opportunity (EEO) enforcement, is inappropriate. Beller defends her use of this indicator on the grounds that "the success for EEO laws in increasing women's entry into male occupations would be convincing evidence that discrimination had originally been a cause of occupational segregation" (page 390). However, the mere fact that the government forces certain firms—particularly firms with large Federal contracts—to change their employment practices does not necessarily mean that discrimination existed in the first place. In fact, Beller's hypothesis and her empirical findings are just as consistent with *reverse* discrimination against males brought about by EEO enforcement as they are with possible direct discrimination against females before the advent of EEO.

Recall that earnings power depreciates with time out of the labor force. The human capital approach states that it is economically rational for those who plan much time out of the labor force to choose occupations with low penalties for intermittent employment. Thus, even in the absence of employer discrimination, efficient employee behavior would lead to occupational segregation on the basis of labor force intermittency. Those with the most intermittent participation would be in the jobs with the smallest penalties for intermittency and the greatest amounts of on-the-job work flexibility. It follows that if women as a whole have more intermittent participation than men, then aggregate differences in occupational structure should exist.

These are exactly the patterns that emerge. Table 10 illustrates occupational patterns for employed females. For each country, with the exception of Israel and Sweden (countries with high female labor force participation rates), a greater proportion of never-married women are in the professional, technical, and administrative-type jobs. This contrasts with the large proponderance of married women in the more menial service and agricultural jobs. (The high proportion of never-married women in clerical and sales-type jobs is probably due to the fact that age adjustments were not made.)

Even Beller's study is consistent (table 11). Here, as was previously indicated, a regression is run assessing the impact of marital status and home time variables on the probability of being employed in a male occupation. The results adhere to the human capital hypothesis. In Beller's own words:

> As predicted [by the human capital hypothesis], women who work part-time are between 3.8 and 4.4 percent less likely to be employed in male occupations then women who work full-time. Women who stated that their main reason for part-year work was "home" taken to represent a greater commitment to work in the home than to work in the market, are 2.8 percent less likely than other women

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[15] Vietorisz and Harrison: 374.

[16] Sandell: 175.

Table 10
Employed Female Occupational Distribution by Marital Status

	Percent profession, technical administrative	Percent production related	Percent clerical and sales	Percent service and agriculture	Total
Austria					
Ever married	7.0	18.2	33.7	41.1	100.0
Never married	10.8	20.5	40.9	27.8	100.0
Denmark					
Ever married	15.5	9.2	37.9	37.3	99.9
Never married	27.9	11.6	25.6	34.9	100.0
Finland					
Ever married	13.8	13.0	27.9	45.3	100.0
Never married	17.1	10.0	32.8	40.0	99.9
Germany					
Ever married	14.2	14.8	55.3	15.7	100.0
Never married	15.4	15.4	63.1	6.1	100.0
Great Britain					
Ever married	13.3	19.0	40.4	27.2	99.9
Never married	25.9	16.5	46.7	10.8	99.9
Israel					
Ever married	33.0	10.6	35.4	21.0	100.0
Never married	23.5	20.3	41.3	15.0	100.1
Japan					
Ever married	7.6	17.1	18.6	56.7	100.0
Never married	11.0	17.5	58.2	13.3	100.0
Netherlands					
Ever married	22.0	4.6	51.4	22.0	100.0
Never married	28.1	8.3	44.8	18.8	100.0
Northern Ireland					
Ever married	18.1	26.2	21.5	34.2	100.0
Never married	18.8	22.4	40.0	18.8	100.0
Norway					
Ever married	20.1	8.6	36.0	35.2	99.9
Never married	28.2	0.0	37.5	34.4	100.1
Sweden					
Ever married	25.2	8.4	41.6	24.8	100.0
Never married	13.9	5.6	55.6	25.0	100.1
United States					
Ever married	24.7	16.1	39.6	19.6	100.0
Never married	28.5	9.2	42.4	19.8	99.9

Source: Patricia A. Roos, "Marital Differences in Occupational Distribution and Attainment," Paper presented at the Annual Meetings of the Population Association of America, Washington, D.C. (March 1981).

Table 11
Marginal Probabilities of Being in a Male Dominated Occupation

	Female		Male	
	coef	t-value	coef	t-value
EDUC	−.017	7.7	−.004	2.3
YRS < 8	−.007	1.4	−.016	4.1
YRS > 12	.024	7.6	−.015	5.3
YRS > 16	.022	3.6	0.002	0.5
EXPER	.005	7.1	0.003	4.4
$EXPER^2$	−.0001	7.3	−.0004	3.2
PARTTIME	−.058	11.0	−.122	16.8
SINGLE	.007	1.0	−.073	11.5
OTHERMAR	.021	3.3	−.031	4.0
NCHILD	.001	0.1	—	—
HOME	−.018	2.4	—	—
N	29,546		36,652	
sample mean	0.177		0.805	
R^2	0.029		0.065	

Source: Table 4 of A. Beller, "The Impact of Education on Entry Into Nontraditional Occupations," manuscript (March 1981) generated from 1977 CPS data. Adjustments also included in regression for weeks worked, veteran status, health, race, Federal share, region, area unemployment rate, and SMSA size.

Table 12
Intermittency and Occupational Distribution

	NLS Data, 1966						PSID Data, 1976		
	Home-time[1]	Actual Female Occup. Dist.[2]	Projected Occup. Dist.[3]	Male Occup. Dist.[4]	Cross-Section Atrophy Est.[5]	Panel Atrophy Est.[6]	Home-time[1]	Actual Female Distribution[2]	Projected Distribution[3]
Professional		14%	19%	17	−.136	−45.21		18.5%	23.6%
Managerial	−1.217	3	7	17	−.531	−30.30	−.035	4.6	8.8
Clerical	0.657	46	9	7	−.362	−21.64	.043	41.3	34.2
Sales	2.375	7	3	6	−.281	−12.61			
Craft	1.095	0.9	0.8	26	−.444	−44.68	−.010	16.4	26.0
Operative	1.299	15	13	22	−.115	−8.17			
Household Serv.	2.461	1	0.5	0	+.387	−5.91	.099	19.3	7.4
Other Service	1.558	13	9	5	−.233	−14.89			

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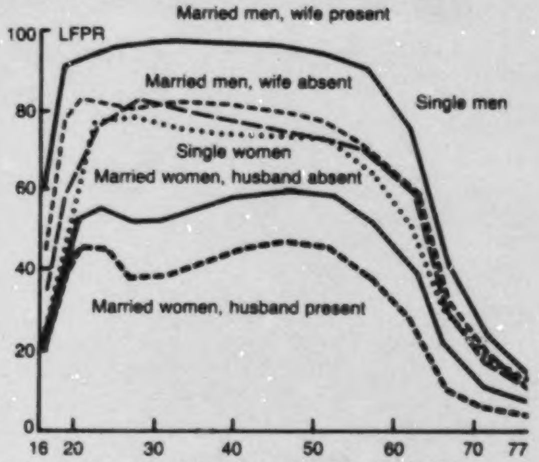
[1] The effect of hometime (time out of the labor force) on the logarithm of the odds ratio of being in the indicated occupation relative to being a professional.

$$\left(\delta \ln \frac{P(OC_i)}{P(OC_{prof.})} \middle| \ \delta \text{ hometime} \right)$$

[2] Percent females in each occupational category.
[3] Projected female occupational distribution were females to have zero hometime.
[4] Percent sales in each occupational category based on 1966 Survey of Economic Opportunity data for men 30-44 years of age.
[5] Atrophy rates computed using 1966 longitudinal data.
[6] Atrophy rates using panel aspects of the 1974 NLS data.

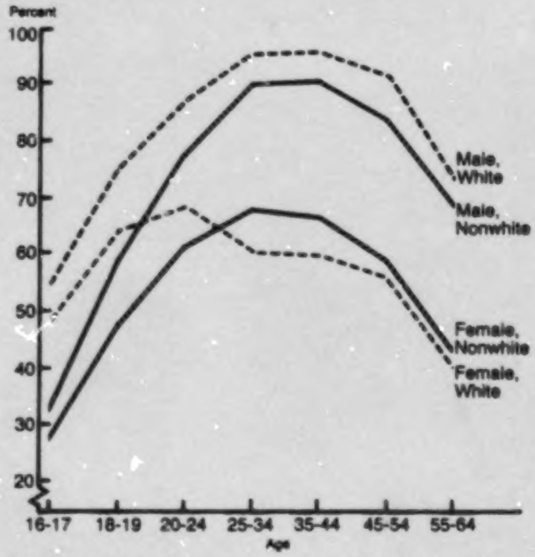
Source: S. Polachek, "Secular Changes in Female Job Aspirations," in R.L. Clark, ed., *Retirement in An Aging Society* (Duke University Press: 1980; and S. Polachek, "Occupational Self-Selection: A Human Capital Approach to Sex Differences in Occupational-Structure," *Review of Economics and Statistics*, February 1981.

FIGURE 1
Labor Force Participation—Presence or Absence of Spouse by Age and Sex, 1970



Source: U.S. Bureau of the Census, *Census of Population: 1970 Detailed Characteristics, Final Report*, PC(1)-D(1), *U.S. Summary* (Washington, D.C.: Government Printing Office, 1973), table 216, p. 688. As reported by Robert Fearn, *Labor Economics, The Emerging Synthesis* (Cambridge, Mass.: Winthrop Publishers, 198-.), p. 72.

FIGURE 2
Age Participation Profiles by Race and Sex, 1978



Source: *Employment and Earnings*, January 1979, pp. 156-57, table 3. As reported by C. Lloyd and B. Niemi, *The Economics of Sex Differentials* (New York: Columbia University Press, 1979), p. 38.

to be employed in non-traditional jobs [p. 383]. Over the range of the curve where most women work, the sign [of the weeks coefficient] is consistent with prediction [p. 383]. As predicted, marital status works in the opposite direction for men than for women. Single women, but married men, have the greatest commitment to the labor force and are most likely to be employed in male dominated occupations [p. 385].

My own analysis of the Ohio State National Survey and the University of Michigan Income Dynamics Survey yields similar results. Columns 1 and 7 of table 12 are logit coefficients reflecting the impact of time out of the labor force (home time) on the logarithm of the odds ratio of being in any occupation relative to being a professional. Note that home time dramatically increases the probability of being in household service occupations while it dramatically decreases the probability of being in managerial and professional occupations. One can apply these logit results to see how the female occupational distribution would change, were women to have a full-time commitment to the labor market. These results are illustrated in comparing columns 2 and 3, as well as columns 7 and 8. It can be seen that with both data sets, full-time, full-life labor force participation dramatically increases the proportion of women in managerial and professional occupations, while dramatically decreasing the proportion of women in household and service jobs.

The scenario about certain jobs being more amenable to labor force intermittency is also upheld.[17] Columns 5 and 6 (table 12) show how atrophy rates (computed in two different ways) vary by occupation. Although crude, they indicate higher earnings losses associated with intermittency in the professional and managerial occupations compared to the household and service occupations.

The research on occupational choice is only at its initial stages. The models merely assess the direct relation between intermittency and occupational choice, yet still neglect other aspects of the interrelationship between job choice and familial responsibility. Nevertheless, though far from the end of the story, the current tables, when taken together, provide evidence that lifetime labor force participa-

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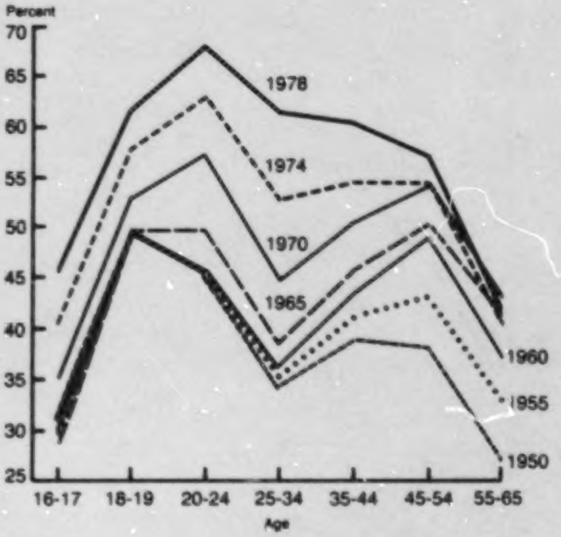
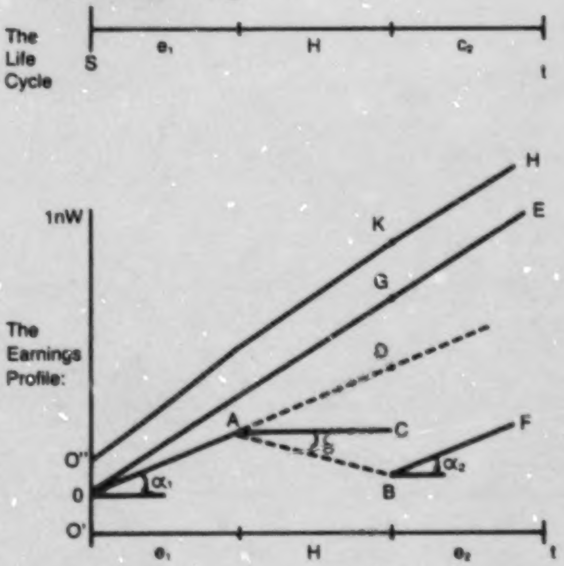
[17] For additional evidence on this hypothesis, see Wolf and Rosenfeld (1978), Cox (1982), Daymont and Andrisani (1982), Zalokar (1982), and Blakemore and Low (1984).

FIGURE 3
Female Age Participation Profiles, 1950-78



Source: 1950-74: U.S. Dept. of Labor, *Employment and Training Report of the President* (1978), pp. 181-82, table A-2. 1978: *Employment and Earnings*, January 1979, p. 159, table 4. As reported by C. Lloyd and B. Niemi, *The Economics of Sex Differentials* (New York: Columbia University Press, 1979), p. 39.

FIGURE 4
Labor Force Intermittency and Its Effect on Earnings



Typical Coefficient Estimates:
α_1 and α_2 = .012 to .040
δ = −.02 to −.005

tion, as predicted by human capital theory, aids in determining occupational patterns.[18]

Current Government Policy

The wage gap has been an issue for the Federal Government at least since the early 1970s. Governmental policy promoting sexual equality in the marketplace has been oriented almost solely towards business. Firms are sued because they allegedly pay unequal wages for equal work. Armed with Title VII of the Civil Rights Act of 1964, Executive Order 11246, and other legislation, the government, as well as individuals, has brought class action suits at unprecedented levels.

Despite such legal activity, most studies[19] have shown that such legislation has had, at best, only small effects. Wage differentials have not narrowed, and occupational distributions remain different. This lack of progress has most likely resulted because governmental legislation treats corporations as the sole culprit of all sex differences within the labor market.

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[18] England (1982) questions the validity of the human capital approach. However, rather than basing her criticism on an appropriate test, she modifies the human capital earnings equation (discussed in the section on the human capital approach) by reintroducing the PF variable (representing the percentage female in a given occupation) as a proxy for labor force intermittency. Introducing a proxy necessarily implies a classic econometric problem of errors in measurement. When her results are recast in the context of sound econometric theory, even they are consistent with human capital theory. See, S. Polachek, "Occupational Segregation: A Defense of Human Capital Predictions" (mimeo), August 1982.

[19] See A. Beller, "EEO Laws and the Earnings of Women," *Industrial Relations Research Association, Proceedings of the 29th Annual Winter Meeting* (1976), 190–98; A. Beller, "The Impact of Equal Opportunity Policy on Sex Differentials in Earnings and Occupations," *American Economic Review (Proceedings)* (May 1982), 171–75; R. Butler and J. Heckman, "The Impact of the Government on the Labor Market Status of Black Americans: A Critical Review," in *Equal Rights and Industrial Relations* (Madison: Industrial Relations Research Association, 1977), chap. 9; H. Goldstein and R. Smith, "The Estimated Impact of the Antidiscrimination Program Aimed at Federal Contracts," *Industrial and Labor Relations Review* (1976), 523–43; and J. Smith and F. Welch, "Black-White Male Wage Ratios: 1960–1970," *American Economic Review* (1977), 323–38.

As has been implied, such an approach is seriously limited in perspective, if only because it neglects societal factors, such as the sex differences in lifetime labor force behavior coming about through the division of labor in the household. Whereas it may be true that some of the sex differences in labor force participation are caused by women being discouraged from working continuously, it is well documented that much of the differences are not caused by firms, but rather the more implicit and subtle forms of societal discrimination taking place directly within the family. The fact that women are on the average younger and less educated than their husbands is sufficient reason to cause specialization within the household, leading to the concentration of men in market work and the concentration of women in nonmarket and family activities.[30] It is for this reason that we observe single-never-been-married women to have greater lifetime labor force commitment than their married counterparts, as well as a higher level of earnings and a better job. It is also for this reason that we observe the wage gap between single men and single women to be small relative to that between married men and married women, to be smaller at younger ages, and larger for those with children.

A Prognosis

Despite the apparent failure of governmental EEO-type policies, greater sexual equality is coming about. It is not noticeable among all women, but is widely observed among the younger cohorts. Young women are entering the labor market in unprecedented proportions. They are doing so with expectations of greater labor continuity brought about by postponing marriage, bearing fewer children, and having almost epidemic divorce rates. These expectations are causing the younger cohorts to invest in human capital skills at unprecedented proportions. School attendance by women is becoming larger than that of men, and women are now entering what used to be occupations of the male domain. Law school, business school, and medical school enrollment, which only a decade ago were at meager levels for women, are now approaching 40 percent. For these groups there is rough parity with men.

Although the older cohorts are also increasing their role in the economy, they are at a great disadvantage. They are reentering the labor market after spending an average of about 9 years out for childrearing responsibilities. Because of this time out, many of their skills atrophied, resulting in an earnings power lower than it otherwise would have been. It is the inclusion of these reentrants that tends to bias downward the aggregate governmental statistics measuring equality between the sexes.

Take an example. The mean male and female wages for the entire economy include those wages of the reentrants. Reentrants to the labor market do so at lower than average wages. Including those with lower than average wages brings down the mean wage, despite the fact that these women may, in the future, have parity earnings with men. For this reason, the use of aggregate data can be very misleading because it fails to take into account the long-term trends that will come about.

Appropriate Governmental Policy to Combat Sex Discrimination

There are two issues governing legal aspects of antidiscrimination policy. One has to do with opportunity and the other with outcome. Equal opportunity implies that such characteristics as race, sex, and religion cannot be used as a determining factor prohibiting a person from any job. Also these factors cannot be used to govern the pay a person receives.

Equal opportunity is guaranteed in the U.S. Constitution and its amendments. There is no doubt that everyone has a moral obligation to provide equal opportunity. However, it is not morality alone that has motivated these laws. Not providing equal opportunity is economically inefficient. It is inefficient because it results in lower output levels. Put differently, discrimination is not free. It is costly to the U.S. economy. Discrimination implies that qualified individuals are not permitted to obtain the jobs they deserve. It also implies that the less qualified will be hired, and it is for this reason that output is diminished.

For an economy devoted to free enterprise, the question of unequal opportunity cannot exist. Long-run competitive forces will drive out of business any firm that engages in discrimination. If only high profit firms can exist in the long run, then those firms that discriminate will be at a competitive disadvantage. Their lives will be short. Thus, competition is the greatest tool for fighting unequal opportunity.

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[30] For a recent depiction of this phenomenon for France see the review in *Time Magazine* (May 31, 1982) of the study by Franch sociologist Francois de Singly, p. 75. For a theoretical description with U.S. evidence, see S. Polachek, "Potential Biases in Measuring Male-Female Discrimination," *JHR* (1975).

Not all economic sectors are competitive. Governments, public institutions, regulated monopolies, and other such institutions do not compete in the marketplace. As such, they need not minimize costs and need not maximize profits. These entities are capable of discriminating. In fact, past studies have illustrated this point for regulated monopolies.[21] Since noncompetitive forces are the prime cause of unequal opportunity, the promotion of economic competition is the greatest weapon in preventing discrimination.

As was illustrated, Federal policy has not concentrated on opportunity, but on outcome measures. Outcome measures are defined as the levels of economic success we observe for the various demographic groups. It has been alleged that unequal economic position among women is prima facie evidence for discrimination to have resulted. Obviously, based on the model of wage determination presented, this is not the case. Unequal economic outcomes in society need not result from unequal economic opportunity. We have illustrated that division of labor within the home is at least equally responsible. Thus, even with equal opportunity, sex differences in incentives can result in unequal outcomes.

Government policy concentrates on bringing the firms to trial if wages, job levels, and promotions are lower for any minority groups. Such action focuses only on outcome and not on opportunity. Such action is often misdirected and costly because it does not get at the true causes of unequal sexual well-being. As indicated, sexual inequality is caused not by unequal opportunity, but by unequal incentives embedded in the family structure. It is the wife who is shackled with the family responsibility, and it is the wife who forgoes wages and job opportunities to take on these responsibilities.

Whereas it is not up to the state to legislate how many children families should have, or whether the husband or wife must take responsibility in raising children, it is the state that helps set the costs. High marginal tax rates on wives' earnings decrease their labor market incentives. Unavailability of low-cost day care does the same.

Equality of outcome is hard to achieve. But even when achieved, it is difficult to measure because everyone is not at the same point in their life-cycle investment process, even for those of the same chronological age. Only with vast changes in the family, and the resulting division of labor patterns, would we observe equal sexual outcomes in the labor market. To the extent that division of labor remains, true economic parity in wages or occupational structure will not be achieved. However, with current demographic trends, a more rapid convergence is coming about. As the newer cohorts age, these trends should be more easily discernible within the data.

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[21] See A. Alchian and R. Kessel, "Competition, Monopoly, and the Pursuit of Money," in H.G. Lewis et al., *Aspects of Labor Economics* (Princeton: Princeton University Press, 1962).

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Explanations of Job Segregation and the Sex Gap in Pay

By Paula England*

Between 1950 and 1980 the proportion of women in the paid labor force rose dramatically, from 28 percent to 51 percent.[1] In the 1950s the increase came mostly from women over 35 returning to jobs when their children were older. The 1960s and 1970s brought unabated increases for women of all ages, but especially for married women with children. By 1980, 45 percent of married women with children under 6 and 41 percent of those with children under 3 were in the labor force.[2] Yet most women still work in predominantly female jobs. Associated with this segregation has been a constant or increasing sex gap in wages. Women who work full time all year earn about 60 percent of what full-time men earn.[3] This paper provides an overview of research from sociology, economics, and psychology that explains the persistence of job segregation and the sex gap in earnings.

Trends in Occupational Sex Segregation

Occupational sex segregation stood at about 62 on a scale from 0 to 100 in 1970, using the Bureau of Census' detailed occupational categories.[4] A value of 62 means that 62 percent of either men or women would have to change occupations in order for every occupation to be integrated.[5] "Integrated" means that each occupation has the same sex mix as the labor force as a whole. The more detailed the occupational categories one uses, the higher value the index takes, since much segregation is masked by broad categories.

What are the postwar trends in occupational sex segregation? Several studies show that the level of segregation actually increased slightly (about 2 points on the 100 point index) during the 1950s.[6] Most of this increase resulted from the disproportionate growth of segregated female clerical jobs, rather than from a change in the sex composition of occupations.[7]

The 1960s showed a small decrease in segregation, estimated to be about 3 points on the 100 point scale.[8] This change resulted mostly from more men entering teaching and social work, and more women becoming real estate salespersons, door-to-door peddlers, postal clerks, and ticket agents.[9]

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* Associate Professor of Sociology and Political Economy, and Center for Policy Studies, School of Social Sciences, University of Texas at Dallas.

[1] Waite, 1981.

[2] Ibid.

[3] Ibid.

[4] England, 1981: 282.

[5] Duncan and Duncan, 1955.

[6] Williams, 1979; England, 1981.

[7] Blau and Hendricks, 1979.

[8] England, 1981.

[9] Blau and Hendricks, 1979.

It is only in the 1970s that we have finally seen a substantial drop in the level of segregation—a drop that Beller (forthcoming) estimates to have averaged .75 points per year, more than twice the drop for the 1960s. Most of the decline during the 1970s came from women entering male jobs. The increased number of women becoming accountants, bank officers, financial managers, and janitors contributed heavily to this decline in segregation. Male-dominated occupations that increased their representation of women by at least 10 percentage points during the 1970s include computer programmers, personnel and labor relations professionals, pharmacists, drafters, radio operators, public relations professionals, office managers, buyers and purchasing agents, insurance agents, real estate agents, postal clerks, stock clerks, ticket agents, typesetters, busdrivers, animal caretakers, and bartenders.[10]

During the 1970s the younger cohorts decreased their job segregation more than older cohorts, and more desegregation occurred in professional and managerial jobs than among blue-collar crafts, operatives, or laborers.[11] Thus, the older adults and young adults of the working class are living in a much more sex-segregated job world than young adults of the upper middle class.

Explanations of Segregation: The Supply Side

Though job segregation declined in the 1960s and 1970s, even the young professional groups exhibiting the most change are nowhere near going into jobs on a sex-blind basis. Even by 1980 over half of women or men would have had to change occupations to achieve sex integration of all occupations. Factors on both the supply and demand sides of labor markets operate reciprocally to maintain sex segregation. Below, I examine these factors, beginning with the supply side. I argue that sex-role socialization is the important supply-side factor influencing segregation and that arguments from human capital theory explain very little of the observed job segregation.

Socialization and Sex-Role Norms

Social forces operating on children convince them by an early age to anticipate sex-typical jobs.[12] Nemerowicz's (1979) sample of middle-class children in 2nd, 4th, and 6th grade showed 54 percent of the girls planning to be teachers, nurses, housekeepers, secretaries, or waitresses. These job categories accounted for only 1 percent of the boys' aspirations. In contrast, 57 percent of the boys saw themselves as firefighters, policemen, working on cars, doing construction or repair, or in a sports-related job. These categories accounted for only 4 percent of the girls' projections.

The processes through which such socialization occurs include cognitive learning and reinforcement.[13] Cognitive learning theory posits that children learn to distinguish males and females, and thereafter they infer from the sex segregation in jobs and roles they observe among adults that this is "the way things are" and "the way things should be." Reinforcement theory focuses on socialization that proceeds, not from simple observation, but from rewards and punishments. Parents and others reward girls for traditionally female traits and job aspirations, while rewarding boys for typically male traits and aspirations.

Girls are taught to emphasize nurturing social skills, physical attractiveness, and domestic responsibility. Boys learn to emphasize technical skills, authoritativeness, and physical prowess. The socialization is by no means immutable, but it molds people with traits and tastes that fit sex-typical jobs. If cognitive learning is the major form of socialization, as Stockard and Johnson (1980) argue, the link between job segregation and socialization becomes circular: Segregation in jobs among adults provides the data for children's learning how roles should be, and this is said to explain job segregation when the generation of children become adults. Yet socialization is never as effective on females as on males. This is because the roles to which females are being socialized have fewer rewards of money and power attached to them. Because of these conflicting inducements operating on girls, more girls than boys aspire to sex-typical jobs and roles.[14]

But the socialization is effective enough to be reflected in occupational distributions.[15] Women fill most nurturing occupations such as teaching, social work, child care, and counseling. The assumption that domestic work is women's work makes it difficult for women with families to work in elite male occupations that demand extensive overtime hours, travel, or geographical mobility. (Nonetheless, women's domestic responsibilities cannot explain the absence of women from many other male-dominated jobs.) The notion that males should hold authority is seen in the lack of women in positions of authority over workers or clients, especially if they are men. The greater emphasis on developing the quantitative, mechanical, and physical abilities of boys increases the underrepresentation of women in jobs with these demands.

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[10] Beller, forthcoming.

[11] Ibid.

[12] Looft, 1971; Nemerowicz, 1979.

[13] Stockard and Johnson, 1980.

[14] Nemerowicz, 1979; Maccoby and Jacklin, 1974.

[15] England, forthcoming.

Socialization has helped perpetuate segregation. Yet I do not think that the reduction of segregation among the younger cohorts in the 1970s can be explained by a change in early childhood socialization. The cohort that entered the labor market in the 1970s was reared in the 1950s, a time of very traditional socialization. This, together with the fact that job segregation among adults is an important input to children's socialization, suggests that the vicious circle is more likely to be broken by a change in adult behavior in labor markets than by changing intentional socialization practices, although both would help reduce segregation.

The Limited Role of Human Capital in Job Segregation

Some economists look to human capital theory to explain job segregation by sex. I will argue that issues involving human capital cannot explain segregation. Human capital theorists correctly point out that investments in humans often yield monetary payoffs by making labor more productive. One's human capital appreciates in market value through investments such as schooling or job experience. Depreciation of one's human capital occurs if job skills get rusty or obsolete while one is using other skills in the home. Thus, differences between groups in outcomes sometimes reflect differences in the groups' investment profiles.

Years of schooling and employment experience are the forms of human capital investment on which research has focused. Since men and women in the labor force have the same average number of years of schooling, 12.5 years,[16] differences in average educational attainment cannot explain why women hold different jobs than men. Many people are surprised to learn that men do not have a higher average education than women because they correctly observe that more men have graduate degrees. But more males than females are high school dropouts, leading males to have the same mean education but a larger variance than women.[17]

Men and women do differ in the amount of employment experience they have. A 1974 national sample showed employed white males averaging 20 years of employment experience while employed white females averaged 12. Thus, one might think that the underrepresentation of women in many male jobs results from the fact that the male jobs require more years of experience to enter than many women have. However, several studies have shown that women with more continuous experience are no more apt than other women to be in predominantly male occupations.[18] If even women with extensive job experience are usually in traditionally female jobs, lack of employment experience cannot be the main factor that is keeping women out of male jobs. Furthermore, a large amount of sex segregation exists in entry-level positions, where males and females are equal in having no job experience.[19]

More sophisticated applications of human capital theory to segregation emphasize lifetime plans, wage depreciation while women are at home, and wage appreciation while on the job. Polachek (1979; 1981) proposed a supply-side explanation for sex segregation that emphasizes the depreciation of human capital while one is a homemaker. Wage depreciation has occurred if a woman has lower real wages upon returning to paid employment than she had when she quit her job to take up full-time homemaking. It is important to distinguish such depreciation from the wages or wage appreciation one foregoes by being out of the labor force. Two people with the same amount of employment experience may have different wages because the one whose employment has been broken by more or longer interruptions has suffered more wage depreciation. Polachek argues that some occupations entail greater risks of depreciation than others, and that women who plan intermittent employment may maximize lifetime earnings by choosing occupations with low depreciation penalties. Since most men plan continuous employment, they have no such incentive to choose occupations with low depreciation rates. Thus,

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[16] U.S. Department of Labor, 1977; 1983.

[17] Ibid.

[18] England, 1982; Daymont and Statham, 1983: Corcoran et al., forthcoming.

[19] Green, 1983; Greenberger and Steinberg, 1983.

Polachek thinks that sex differences in plans for employment continuity lead to sex differences in the job choices that will maximize men's and women's lifetime earnings. In this view, men's and women's pecuniarily rational choices will lead jobs with low depreciation rates to be predominantly female and jobs with high depreciation rates to be male.

Although Polachek's thesis is deductively plausible, it is not supported by empirical evidence. Using cross-sectional earnings functions for 1967 and 1976 data, I have shown that, contrary to Polachek's prediction, the depreciation rates that women suffer do not get larger as one moves to jobs containing more males.[20] This finding has been replicated using the longitudinal features of the Panel Study of Income Dynamics.[21] These findings tell us that the depreciation penalty—the amount by which women's wages drop between the time they leave employment and return to employment—is no lower in female- than male-dominated jobs. Thus, there is no pecuniary advantage to women of choosing female jobs.

Another application of human capital theory focuses on the appreciation rather than depreciation of human capital. Zellner (1975) suggested a link between human capital appreciation and segregation, although she abandoned the hypothesis after finding it not supported by evidence. Economists usually assume that, other things being equal, jobs with steep wage appreciation have lower starting wages. The lower starting wages are a price employees pay for the training they will receive leading to appreciation. Zellner hypothesized that if there is a tradeoff between starting salary and wage appreciation in choosing a job, women who plan limited years of employment do better to pick jobs with high starting wages and low appreciation. This is because they may not be employed long enough for the benefits of appreciation to offset the lower starting wages. Like Polachek's view, this thesis says that because men and women differ in the number of years they plan to be employed, the job choices that will maximize their lifetime earnings differ, and this leads to segregation. If these choices are what lead to segregation, data should show that predominantly female jobs have higher starting wages, but lower appreciation than male jobs. But Zellner (1975) concluded that the evidence does not fit this interpretation. Male jobs offer women higher starting wages than female jobs.[22]

In summary, female occupations average lower earnings than male occupations at every educational level and stage of the life cycle. Female occupations offer women neither higher starting wages nor less wage depreciation than male occupations. So women pay a price in lifetime earnings for choosing female occupations. Thus, to the extent that the supply-side choices of women explain segregation, it must be sex-role norms motivating these choices, since women have no pecuniary motive to choose female occupations.

Explanations of Segregation: The Demand Side

Discrimination in Hiring, Placement, and Promotion

Why would employers engage in discrimination in allocating men and women to jobs? The major theories of discrimination emphasize tastes, error, or statistical generalization as inducing discrimination. The sex-role socialization discussed above not only affects job choices on the supply side, it also produces employers with discriminatory attitudes. Employers may simply deem it inappropriate to place women in traditionally male jobs. Economists think of these norms as "tastes" that people indulge for nonpecuniary rewards. Thus Becker (1975) coined the term "taste discrimination" to refer to preferences for not hiring members of some group. He pointed out that since tastes provide nonpecuniary satisfaction, employers are willing to pay some price to indulge them. "Error discrimination" occurs where employers do not have discriminatory tastes, but they erroneously underestimate the potential productivities of women in men's jobs and therefore hesitate to hire women in these jobs.

A more subtle notion is the concept of statistical sex discrimination. This occurs when hiring decisions are based on differences between male and female averages on predictors of productivity. For example, if employers correctly observe that women have less mechanical knowledge than men, on average, they may hesitate to hire women in positions requiring mechanical knowledge, screening out even women who are atypical for their sex in their extensive mechanical knowledge. Or, because women have slightly higher turnover rates than men, employers often hesitate to hire women in jobs where they will provide expensive training, screening out even those women who would have stayed for decades. Since men and women have overlapping distributions on virtually all characteristics, using sex-group means to estimate applicants' productivities results in mistaken predictions for individuals above or below the mean for their sex. Statistical discrimination comes about because employers have limited information about employees' productivity when they hire them, and getting more information (e.g., through testing, a trial period, or contacting references for each applicant) is costly. For example, how is an employer to predict how long an applicant will stay with the firm, or how successful a managerial style he or she has? Because of this uncertainty and the cost of information, basing predictions on averages for easily recognizable groups (e.g., groups defined by race, sex, age, or education) may save more in screening costs than is lost by the nonoptimal work force that results. Actually, all hiring decisions rely on group averages of some sort, even those we don't usually label "discrimination." For example, requiring a high school diploma may be based on the observation that workers who dropped out of high school are less disciplined, on average. The use of group averages makes us call the process "statistical." But it is the fact that the proximate cause of a personnel decision is an ascriptive characteristic that one has no way to change, like race or sex, that leads to the label "discrimination."

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[20] England, 1982; 1984.

[21] Corcoran et al., forthcoming.

[22] England, 1984; Greenberger and Steinberg, 1983.

It is virtually impossible to estimate how much of the segregation of men and women into different jobs results from employers' discrimination and how much results from men's and women's different socialization. The reason it is so difficult to estimate the magnitudes of these two factors is that we seldom have data sets containing information on the qualifications of applicants and employees, their preferences for job placements and promotions, and the resultant occupational distributions.

Given these limitations in available data, how can we ascertain the role discrimination has played in the allocation of men and women to jobs? One approach has been to survey managers for their opinions on the appropriateness of men and women in various jobs. Such studies often unearth discriminatory attitudes and actions. For example, Hakel and Dunnette (1970) asked managers who interview job applicants to rank a number of applicant characteristics on a scale from unfavorable to favorable. The average manager saw female gender as favorable for clerical applicants, but saw male gender as favorable for managers, management trainees, and engineers. Summers et al.[23] report on interviews with managers who decided a priori which gender to hire for production jobs in new factories in nonmetropolitan areas on the basis of which sex they predicted to be more productive at the job. Levinson (1975) documented discrimination by having people make bogus phone calls in response to job advertisements. He found that 28 percent of the females inquiring about traditionally male jobs and 44 percent of the males asking about typically female jobs got responses stating that persons of their sex would not like or be good at the job.

An interesting research project on discrimination was begun in 1972 at the School of Business Administration at the University of North Carolina.[24] Rosen and Jerdee (1978) conducted a national survey of 884 male managers and administrators across 66 establishments. Participants anonymously completed a questionnaire that asked for a comparison of men and women on numerous traits relevant for managerial effectiveness. For each trait, participants could choose from a five-point scale with "men much more than women" on one end and "women much more than men" on the other hand. Averaging across all those that answered, men were evaluated more highly on understanding the "big picture" of the organization, approaching problems rationally, getting people to work together, understanding financial matters, sizing up situations accurately, administrative capability, leadership potential, setting long-range goals and working toward them, wanting to get ahead, standing up under fire, keeping cool in emergencies, independence and self-sufficiency, and aggressiveness. Characteristics attributed to women more than men included clerical aptitude, being good at detail work, enjoyment of routine tasks, crying easily, sensitivity to criticism, timidity, jealousy, excessive emotionality regarding their jobs, absenteeism, likelihood of quitting, and putting family matters ahead of their job.

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[23] 1976: 41–42.

[24] Rosen, 1982.

Other surveys in the project showed that managers are more likely to recommend a man than an identically described woman for a prestigious training conference, and they are more apt to terminate a female than male engineer for absences from work.[25] These findings were obtained by giving the surveyed managers hypothetical stituations and asking for their decision. Differences in their treatment of men and women were ascertained by giving half the respondents certain situations to respond to, while the other half got the identical situations with the gender of the employee's name changed.

In another phase of the project,[26] 235 male undergraduate business students were asked to assume the role of a consultant to make hiring decisions. Subjects were given hypothetical job descriptions and information regarding an applicant for each position. Each subject was given one hypothetical applicant for each of two positions, one managerially demanding and one routine. Some subjects reviewed an application with a male name, while others reviewed the identical application with a female name attached to it. Overall, females were selected significantly less often than males (59 percent versus 71 percent), but the sex difference in selection was greatest in the demanding position, where 65 percent of the males but only 46 percent of the females were selected.

These pieces of research suggest discrimination on the basis of tastes, error, or statistical generalization. What is striking about the research by Rosen and Jerdee is that it was all done after 1972—when the women's movement was in full swing and fully 8 years after sex discrimination in employment became illegal. This evidence does not refute the notion that discrimination has declined in the last decade, but it does suggest that substantial discrimination persists.

Given this evidence of discrimination, what arguments are offered by those who think very little sex discrimination in hiring, placement, or promotion persists in the economy? Some economists base such arguments on a theoretical notion that discrimination should erode in competitive markets without government intervention.[27] Here is their reasoning: Employers who won't hire women in certain jobs force women who want these jobs to offer their labor to other employers at a lower wage. The employers who will hire women in "men's jobs"—those who have no discriminatory taste or erroneous estimates of women's average productivity or those who find a better predictor of productivity than sex group averages—reap the benefits of the discriminators' acts in lowered labor costs. Since nondiscriminators will have a cost advantage, many economists predict that discriminators will eventually lose market shares or go out of business.

I agree that market forces erode discrimination, but I think discrimination often brings countervailing forces into existence, so that discrimination may not disappear without intervention. Economists have failed to recognize feedback effects between households and labor markets that create discrimination anew before it has a chance to erode completely, creating a vicious circle. The direction of causation runs both ways between labor market discrimination and household behavior. Consider discrimination at some "time one." How will such discrimination affect behavior in the household? If women are discriminated against, fewer females will aspire to or train for male jobs (knowing that they are unlikely to get them), more couples will specialize with the wife doing household work and the husband doing paid work, more educational and geographical investments will be made in male careers, and traditional socialization will seem more rational to parents. These developments will reinforce stereotypical notions about women, tastes for discrimination, and allow correct statistical calculations that suggest that fewer women than men are suited for male-dominated jobs. New discrimination may be created before market forces have had time to erode the discrimination started at "time one." These feedback effects operate at cross-purposes with market mechanisms that erode discrimination. Given the empirical evidence of managers' discriminatory attitudes and behavior, and the theoretical argument regarding feedback from discrimination, I conclude that discrimination has been an important, though declining, force in occupational segregation.

Structured Mobility Ladders

Jobs tend to divide into those that are not attached to mobility ladders, and jobs that are attached to ladders of various lengths. Once segregation has occurred at jobs that are ports of entry to firms—whether from discrimination or sex-role socialization—the segregation will be perpetuated because the training provided and the mobility opportunities depend on the ladder to which one's entry job is attached more than on the personal characteristics one brought to the workplace. Thus, the existence of structured mobility ladders, or internal labor markets, carries much of the segregation in entry-level jobs into the future without a need for further discrimination. One is usually either on a "female ladder" or a "male ladder." Studies find that when mobility ladders are attached to predominantly female entry-level jobs, they are typically shorter than those attached to male jobs.[28]

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[25] Rosen and Jerdee, 1974b.

[26] Rosen and Jerdee, 1974a.

[27] E.g., see Lindsay, 1980.

Explanations of the Sex Gap in Earnings

Segregation and the Sex Gap in Earnings

A large part of the male-female earnings gap among full-time, year-round workers results from the concentration of women in lower paying jobs rather than from men and women in the same job getting paid different amounts. When male and female earnings are compared within occupational categories, the income difference is much smaller than in the labor force at large.[29] Furthermore, men and women in the same occupation are often segregated by firm.[30] It is clear that the finer the job classification, the less the differential between men's and women's incomes within jobs. At the same time, the finer the classification, the more segregation is revealed and thus the more earnings difference between the sexes is a consequence of between-job differences. Thus, to the extent that segregation "explains" the sex gap in pay, in that women are segregated into lower paying jobs, all the explanations of segregation discussed above are explanations of the sex gap in pay as well. These factors of sex-role socialization, discrimination in hiring, placement, and promotions, and structured mobility ladders, have their effects on the sex gap in pay via their effects on segregation. There are two other factors that affect the sex gap in pay more directly—human capital and the type of wage discrimination at issue in "comparable worth." These are discussed below.

Human Capital and Family Responsibilities: The Supply Side

Since men and women in the labor force have completed the same average number of years of schooling,[31] there are no sex differences in this amount of human capital to explain the sex gap in earnings. Employment experience and firm seniority are the kinds of human capital that are related to the sex gap in pay. Early work by Polachek (1975) argued that about half of the gap could be explained by differences in the amount of time men and women had been employed versus working at home as homemakers. A replication by Sandell and Shapiro (1978) corrected some errors in the data that Polachek had used, disputed some econometric procedures, and estimated that sex differences in years of experience explained about a quarter of the gap in pay. Research using data with a fuller age range and a more complete list of measures of human capital and labor force attachment finds less than half of the gap explained.[32] Corcoran and Duncan (1979) decompose sex differences in wages into portions attributable to sex differences in years out of the labor force since completing school, years of work experience before present employer, years with current employer (broken into those years involving training and those not involving training), the proportion of working years that were full time, absences from work due to illness of self or others, limits placed on job hours or location, and plans to stop work for nontraining reasons. All these variables, plus education, explained 44 percent of the earnings differences between white men and white women and 32 percent of the earnings differences between white men and black women. For both black and white women, the factor explaining most of the sex gap was years with current employer, especially the years during which the employer is providing training. To the extent that employers discriminate in not providing as much training to women as men, some of the pay gap explained by this factor may reflect demand-side discrimination rather than supply-side choices.

I have argued that sex differences in human capital (job experience) explain up to 44 percent of the sex gap in earnings among whites, and much of the sex gap in earnings is explained by segregation.

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[28] Kanter, 1977: 136; Grinker et al., 1970.

[29] Fuchs, 1974: 23-26; Malkiel and Malkiel, 1973: 693-705.

[30] Blau, 1977.

[31] U.S. Department of Labor, 1977; 1983.

[32] Corcoran and Duncan, 1979.

One might infer that human capital differences explain the segregation of women into lower paying jobs which, in turn, explains the sex gap in earnings. But this is not the case. Instead, human capital differences and segregation are independent components of the sex gap in earnings. Women who have more experience earn more than other women, but they are just as apt to be in female occupations. Concomitantly, women in male occupations earn more than women in female occupations, but they have no more experience, on average.

Unequal Pay for Jobs of Comparable Worth: The Demand Side

Discrimination in hiring, placement, and promotion is a demand-side phenomenon affecting segregation. There is a second type of discrimination operating on the demand side of labor markets. It is the type of discrimination identified by the doctrine of "comparable worth." The first type of discrimination involves taking sex into account in allocating people to positions. The second type, the wage discrimination at issue in "comparable worth" debates, involves taking the sex of a job's typical incumbent into account in setting jobs' wage levels.

Studies using a "policy-capturing" approach provide evidence that this type of discrimination is operating in the U.S. labor force. Such research seeks to assess whether the pay of jobs is being determined in part by the sex of the people doing the work. To estimate whether and how much of this discrimination is operating, one must first determine what (explicit or implicit) policies are determining the wage levels of various jobs. Then it is possible to estimate whether jobs populated by women pay less than predicted on the basis of job characteristics observed to be criteria of pay.

This policy-capturing approach to defining comparable worth is best operationalized in a multiple regression. The type of wage discrimination at issue in comparable worth is indexed by any net effect of the sex composition of jobs on their pay level that remains even when other job characteristics shown to be determinants of jobs' pay levels are entered as control variables. The analysis may take jobs rather than individuals as the units of analysis. The dependent variable is a measure of the average, median, or starting pay in the jobs. Separate regressions are often run to predict male and female wages. Any characteristics of jobs thought to affect wages are entered as independent control variables. The sex composition of jobs (measured as percentage male or percentage female) is entered as the independent variable whose net coefficient measures the sort of pay discrimination at issue in comparable worth. If women choose or are confined to jobs that would be low paying quite apart from their sex labels, these differentials in wages will not be included in the measure of wage discrimination; regression analysis will control for such differentials. Thus, a policy-capturing approach does not treat every instance of a lower paying job filled by females as an instance of sex discrimination.

Nor does this policy-capturing approach to assessing discrimination in wage setting rest on normative judgments by the researcher as to what characteristics of jobs are payworthy. Rather, the approach seeks to determine what policies are operative in the labor market. The approach focuses on employers' revealed standards of pay worth and sees if sex composition affects these.

Two studies have used a policy-capturing approach to look at the U.S. labor force, taking 1970 detailed census occupational categories as units of analysis. One study[33] regressed median (male and female) earnings for full-time, year-round workers on occupational characteristics. The occupational characteristics serving as (control) independent variables are measures of the skill demands of the jobs taken from the *Dictionary of Occupational Titles*. The variables include general educational requirement; specific vocational preparation; requirements for cognitive skills of intelligence, verbal aptitude, numerical aptitude, and complexity of the task with data; perceptual skills of clerical, color, form, and spatial perception; manual skills of finger dexterity, manual dexterity, motor coordination, eye-hand-foot coordination, physical strength, and the complexity of the task with things; and social skills of speaking, persuading, supervising, instructing, negotiating, and mentoring. The inclusion of these variables does capture employers' wage-setting policies fairly well as indicated by an R2 of over 75 percent of the variance explained. After controlling for all the skill characteristics listed above, each 1 percent female in an occupation was found to have a net depressing effect on annual earnings of $30 for males and $17 for females. This means that the difference between the median annual earnings of full-time workers in two occupations of equivalent value in their combinations of skill demands, but differing in that one is 90 percent female and one is 90 percent male, is $1,360 for women and $2,400 for men. Thus, either men or women suffer a wage loss if they are in a female occupation. But, since, by definition, females are more concentrated in female occupations, the net effect of sex composition on wages is to lower women's earnings in relation to men's for reasons quite apart from the skill requirements of their occupations. This is the sort of pay inequity at issue in debates on comparable worth, and the analysis described[34] estimates that it explained 32 percent of the sex gap in earnings among full-time, year-round workers in 1970.

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[33] England et al., 1982.

A similar study[35] used a more limited set of skill measures from the more recent fourth edition of the *Dictionary of Occupational Titles.* It included a control for average years of experience of males and females in each occupation. The equations show a net effect of 1 percent female in an occupation to have a depressing effect of $30 on men's and $16 on women's annual wages, virtually the same estimate obtained by England et al. (1982).

Some economists reject the existence of comparable worth discrimination by invoking crowding in female occupations, rather than pay discrimination, to explain the low wages of female jobs.[36] Bergmann's (1974) crowding thesis holds that the low wages in women's jobs result from the exclusion of women from male jobs. It is irrelevant to the main contention of the thesis whether the exclusion of women from some jobs results from hiring discrimination or premarket sex-role socialization. The consequence is an inflation in the supply of labor to female jobs, an outward shift in the labor supply curve. In contrast, if employers discriminatorily take the sex composition of jobs into account when they set wages, they are shifting the demand curve for labor in female jobs inward. I agree that crowding will lower wages, but I see little evidence that women's occupations, such as clerical work, are more crowded than men's jobs. Sex segregation does not necessarily imply that women's jobs are more crowded than men's. The fact that women are concentrated into fewer job categories than men is not necessarily indicative of greater crowding, since occupational categories differ greatly in size.

The main evidence against the contention that women's jobs are more crowded than men's comes from evidence that women's jobs have had unusually large increases in labor demand in this century.[37] The service industries and many sex-typed jobs like secretary, nurse, and waitress have grown tremendously since World War II. If we accept the thesis that economies tend to grow in agricultural, manufacturing, and service sectors, in that order,[38] then recent growth in service jobs that were female even before this surge of growth must be viewed as a change in labor demand rather than an escalation of crowding. Given this, we have little reason to believe that a net coefficient on jobs' sex composition in an earnings function will reflect crowding in females' jobs rather than the sort of wage discrimination at issue in "comparable worth."

Conclusion

Occupational sex segregation and the sex gap in pay have multiple causes. Segregation persists because of sex-role socialization affecting job choices; discrimination in hiring, placement, and promotion; and structured mobility ladders that perpetuate much of the segregation that occurs in entry-level jobs. Since the jobs in which women are concentrated have lower pay than male jobs, these factors explaining segregation have indirect effects on the sex gap in pay. The sex gap in pay is also affected by the fact that women have less job experience than men. Finally, the sex gap in pay results in part because employers pay lower wages in female jobs than in male jobs requiring comparable amounts of skill and experience. This last factor is the type of pay discrimination at issue in the debate over "comparable worth."

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[34] Ibid.

[35] Treiman and Hartmann, 1981: 28–30.

[36] Lindsay, 1980.

[37] Oppenheimer, 1970.

[38] Ibid.

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Comparable Worth at Odds with American Realities

By Brigitte Berger[*]

In the current debate, the notion of comparable worth revolves around the persisting gap between the earnings of men and women and, in a few instances, that of minorities as well. Advocates of comparable worth argue that the pathbreaking congressional acts of the 1960s designed to eliminate discrimination did not produce the desired results. Twenty years after their enactment, the male-female earning disparity (reflected in the oft-quoted datum that the average earnings of fully employed women were, in 1978, 55 percent of the fully employed male average earnings[1]) continues to persist. Although the opportunities to move out of sex-segregated job categories guaranteed by the legislative acts of the 1960s may be welcome to many women, advocates of comparable worth argue for wage adjustments in "women's jobs" rather than opportunities to work in other jobs.[2] The marketplace, it is claimed, has historically discriminated against women by establishing lower rates of compensation for jobs held predominantly by women. Typical female jobs, such as nurses, school teachers, librarians, secretaries, maids, and clerical workers, are underpaid[3] because female labor has been historically undervalued. By the same token, it is argued that typical female qualities and attitudes women bring to their job—such as caring, smiling, and nurturing—have not yet been recognized by the market. What is needed today are new wage assessment models that can take these female factors into account.[4] The once popular slogan "equal pay for equal work" has today been replaced with the new clarion call of "equal pay for equal value."

The issue of comparable worth entails implications that transcend the immediate political agenda. What is thought to be a fundamental discrimination against women is held, by its proponents, to be a deeply ingrained pernicious feature of capitalist society. Only a government-designed and enforced program for the rectification of these injustices can be expected to counter the discriminatory features produced by an economic system that relies on purely market mechanisms.

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[*] Professor of Sociology, Wellesley College.

[1] Donald J. Treiman and Heidi I. Hartmann, eds., *Women, Work, and Wages: Equal Pay for Jobs of Equal Value* (Washington, D.C: National Academy Press, 1981).

[2] Treiman and Hartmann, *Women, Work, and Wages.*

[3] See *1975 Handbook on Women Workers,* U.S. Department of Labor Bulletin 297 (1975): Women represent 97.8 percent of all registered nurses, 94.5 percent of elementary school teachers, 69 percent of retail sales clerks, 76.6 percent of all clerical workers (including bank tellers, bookkeepers, file clerks, secretaries, etc.), 96 percent of maids, 82.9 percent of food servers (waitressss), and 87.6 percent of all health service workers.

[4] Heidi Hartmann, Patricia Roos, and Donald Treiman, "Strategies for Assessing and Correcting Pay Discrimination: An Empirical Exercise." Staff paper prepared for the Committee on Occupational Classification and Analysis, National Research Council, National Academy of Sciences, June.

Many of the issues surrounding the notion of comparable worth are being raised currently in complaints, grievances, public discussions, and lawsuits. Prestigious commissions and panels are turning the laser beams of their expertise to a variety of aspects connected with it: Are the measured income differences between men and women, indeed, due to gender discrimination; can a workable model for the definition and measurement of comparable worth be developed; to what degree is it possible to circumvent the market, and if that is done, what are the consequences for the economy and the polity; and what are some of the legal issues connected with this complicated proposition? Powerful interest groups, Federal district judges, worried politicians on the campaign trail, as well as a growing number of experts, have entered the fray. Under the acclaim of the pundits of the media, comparable worth is about to be turned into the most formidable and, perhaps, the most divisive social issue of the 1980s.

In this paper I shall argue that comparable worth is too broad an issue to be left to negotiations between disputing camps of economists and performance evaluation experts. Neither can this proposition be left to the argumentative powers and legislative skills of lawyers. Above all, it is too important an issue for American society to be dealt with by government fiat influenced by the politics of the day. This is not to say that the many experts who have been drawn into the emerging debate are not competent or what they have to contribute is not useful. But in their narrowly defined focus on a very complex issue they are led to abstract economic and/or legal aspects from a profusion of individual experiences and concerns. Thus, they tend to misunderstand American society, its institutions, its people, and their aspirations. More than anything else, they tend to misunderstand the hopes and values of, by far, the majority of American women.

To a sociologist like myself, all political and economic issues have to be located within the larger context of society. To lift any social phenomenon out of the broader structures in which it is embedded and to disregard the meanings a particular phenomenon holds for individuals participating in it means to reduce it to an empty form from which all life has been drained. We do not learn much about the life and hopes of women who participate in the labor market today from the mounting number of publications on comparable worth. Instead we learn about abstract problems of market mechanisms, performance evaluations, political agenda, and the complexities of the search for alternative devices. But after the methodological onion is finally peeled—if, indeed, it ever can be—after the arguments for the establishment of an abstract notion of economic justice have been settled at last, we still know little, if anything, about the way in which ordinary American women seek to order their lives, the things they value and cherish.

If one hopes to avoid the pitfalls of a partial vision of life, the issue of comparable worth has to be taken beyond its strictly economic and legal frame of reference. Others, better qualified than I, will have to evaluate the adequacy of economic conceptualizations, measurements, and model building. At the same time, the issue is surrounded by a great number of legal, political, and social complexities that cannot be dealt with within the confines of this paper. Hence, from this broad range of issues, two aspects have been singled out:

- The first deals with the perception of the role of work in the life of American women, and
- The second is concerned with the dangers of a quasi-elitist view of the value of work to a democratic society like ours.

While particular attention will be paid to the first of these two aspects, both have been chosen for discussion here as they, more than any other, can illuminate the fundamental confusion that lies at the heart of the notion of comparable worth as it is being discussed today.

Since World War II there has been a mass migration of women into the paid labor force. The dimensions of this migration are too well known to be repeated here. The reasons for the movement of women into the labor market have been, and continue to be, varied and manifold. They range from changing cultural attitudes and perceptions, search for autonomy, and self-fulfillment, as well as escape from boredom to career interests, search for individual achievement, and opportunities to make a contribution to society. But above all, women turned to the labor market out of a desire to make a contribution to the family income. It can be argued that the mass participation of women in the labor market has to be viewed largely in terms of economic self-interest, if not necessity.

As women moved into the labor market, they encountered long-entrenched and massive barriers and discrimination against them. In response, women began to protest and, finally, organize politically to struggle for equality, both politically as well as economically. The result of all these activities was the passing of the Equal Pay Act of 1963 and Title VII of the Civil Rights Act of 1964. The Equal Pay Act of 1963 requires employers to comply with the basic standard of "equal pay for equal work," and the basic tenets of Title VII of the Civil Rights Act of 1964 set forth a general ban on employment practices that discriminate on the basis of race, color, religion, sex, or national origin. In this manner Congress provided constructive and effective means to protect women from political and economic discrimination. These legislative acts had far-reaching consequences. In the area of work, a great array of new occupations was opened up for women, and barriers to their occupational mobility into more highly paid categories of jobs were removed. In the past few years impressive evidence has emerged that women have begun to avail themselves of these job opportunities in ever larger numbers. Census data, for instance, indicate that the number of women employed as managers and administrators (nonfarm) increased from 1.0 million in 1970 to nearly 2.6 million in 1979.[5] The significance of this change is further highlighted by a comparison with the number of females in the clerical work force.[6] In 1970 there was 1 woman employed as a manager for every 10 women employed in clerical positions. From 1970 to 1979, however, for each increase of 10 in the number of female clericals, the number of women employed as managers increased by 4. "In 1970, women filled approximately 16 percent of all manager positions, but by 1979 the number had risen to 24.4 percent."[7] Another example can be found in the dramatic increase in the number of female lawyers and judges from 13,182 in 1970 to more than 61,000 in 1979. And at the time of writing this paper in 1984, there is further convincing evidence amassing that this trend continues in full force. So for instance, the number of female students in law schools approaches rapidly the 50 percent mark just as the proportion of female students in the Nation's business and medical schools continues to rise towards ever greater parity with men.

However, at the same time there exists impressive evidence as well that in many instances certain categories of jobs in the market are predominantly held by women. It seems, thus, that women gravitate towards typically female jobs, that is, the aforementioned job categories of nursing, school teaching, secretarial, and clerical work. This persistent gravitation of women towards historically defined female-type jobs is precisely the basis upon which the argument for comparable worth stands or falls. For what becomes increasingly apparent is that considerable proportions of the women in the labor market have not availed themselves of the newly created opportunities for job and income mobility.

Instead of taking the argument in the direction taken by the proponents of comparable worth, it is possible to interpret this phenomenon in different terms. Namely, women have failed and continue to fail to upgrade their job-related skills. This failure manifests itself, in particular, if one examines the unchanging percentage of women in those crafts and technically skilled occupations that command higher wages.[8] A 1978 United States Labor Department study describes the situation in the following terms:

> Despite affirmative action programs and publicity on the career success of women in stereotypical male positions, most women have not changed their career aspirations. They continue to plan careers in traditionally female positions. As a result, they continue to occupy lower paying positions.[9]

The question that must be answered then is, why is that so?

I think it would be quite wrong to argue from a biological perspective. That is to say, it would, in my opinion, be a mistake to infer from this apparent reluctance of women to enter into crafts and technically highly skilled jobs that they are lacking in the human potential needed for the performance of technical and physical jobs, such as the typically male jobs of electricians and plumbers. It would be equally wrong to conclude that women neither have the propensity for nor the interest in technology. On the contrary, a good number of women are fascinated by technological questions and are perfectly capable of performing, competently, this kind of work. The reasons why they do not choose to do so and why there is, thus, a marked imbalance of females in certain types of jobs must be sought elsewhere.

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[5] 1970 Census of the Population, Emloyment and Earnings, January 1980.

[6] These figures, as well as the subsequent argument, owe much to E. Robert Livernash's "Overview" in E.R. Livernash, ed., *Comparable Worth: Issues and Alternatives* (Washington D.C.: Equal Employment Advisory Council, 1980).

[7] Livernash, "Overview," p. 20.

[8] See the 1980 census. This is not the place to argue about the role of unions. In any case, if labor unions should, indeed, be an issue here, it would follow that women will have to organize and contest union barriers against them.

[9] See *Years of Decision*, vol. 4 (1978), U.S. Department of Labor, Employment and Training Administration.

Although women are committed to participate and stay in the labor force—and there is little indication at the present time that there will be any fundamental change in this soon—the fact is that they are even more committed to values and practices that center around marriage and family life. There is available to us today an abundance of data that indicate that to the vast majority of women—92 percent—family life, a life that includes children, husbands, a household, as well as other relatives, is of paramount importance. Regardless of the much flaunted ambiguity about marriage and the family by the media, and in the face of a widely propagated hoopla about the stellar significance of careers in the life of women, to some 86 percent of them the family is the single most meaningful part of life, in contrast to the barely 9 percent who in 1979 claimed that work is the most important aspect of their lives. Some 83 percent of American women say that they would welcome more emphasis on traditional family ties. And what is more, young women—those between 18 and 24—confess to a greater longing for traditional family life than they think their own parents had.[10] Although women have joined the work force in record numbers and, with interruptions, remain in it, they nonetheless continue to marry and have children. And that goes, with minor differences, for college-educated women as well. To be sure, the divorce rate has skyrocketed, yet the rate of remarriage—Dr. Johnson's celebrated "triumph of hope over experience"—continues to be remarkable. In this age of discontent, married women are happier, healthier, and live longer than unmarried ones. Moreover, working women, when married and with small children to boot—though being the most harassed—are the happiest of all. As it has been pointed out frequently, America is still in the family way.[11]

The persistence of traditional priorities among women is borne out by a number of very recent studies as well. One midwestern study examining the career aspirations of high school girls shows that, by far, the majority (including the "brightest and the best") feel that they will not be working more than 5 years after graduation. Another study of juniors and seniors of a small midwestern liberal arts college inidcated that 80 percent expected to combine career and family life. Only 10 percent of those who were interviewed were interested in a career alone, and the remaining 10 percent expressed a preference for family as a career.[12] At the present time, we seem to be witnessing, also, a reemergence of family values and sentiments among the highly educated and career-oriented women who started out on their careers in the 1970s. A realization appears to be spreading among young career women in this "second phase feminism" that something more than a successful career is needed for a full life. Whereas only 10 years ago single-minded, career-oriented women were held to be role models for future generations of women, today's pioneers are those who give priority to the raising of their children.[13] Although this trend is based upon more or less anecdotal data, the signs are real enough not to be overlooked. However, the trend receives solid substantiation from the "hard" data of demographic statistics, as it is reflected in the pattern of childbearing among the cohort of highly educated career women now in their thirties that has resulted in the mini baby boom of the past few years.

The fact that women give priority to the family and to what they perceive to be the welfare of their family is further supported by a set of data released in April 1984 by the U.S. Census Bureau on the rise of the two-income family in the United States. More than three-fifths of all married couples in the United

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[10] See Ruth Clark and Greg Martin, "Americans Still in a Family Way," *Public Opinion*, October/November 1979. Andrew Greeley et al., "A Profile of the American Catholic Family," *America*, September 1980. Both essays base their arguments on a large number of empirical data and surveys.

[11] Compare, e.g., the various surveys conducted through *Good Housekeeping Magazine* (based upon the responses of over 40,000 women), *Psychology Today* in collaboration with Columbia University psychologists (over 50,000 responses), studies conducted by the University of Michigan Institute for Social Research, and the various summaries of polls and surveys by Yankelovich Research Association.

An excellent summary of these various findings can be found in Jonathan Freeman, *Happy People: What Happiness Is, Who Has It and Why* (Harcourt Brace Jovanovich, 1978).

[12] "Princeton Reunion Puts '73 Women in Limelight," *The New York-Times*, June 9, 1983.

[13] Quoted in "Two-Income Families on the Rise, U.S. Says," *The New York Times*, Apr. 4, 1984.

States today have two incomes, a number that is significantly higher than in earlier decades. In 1981—the most recent year for which statistics are available—62 percent of all married couples were employed, up from the 50.1 percent in 1970 and 40 percent in 1960. The same set of data further indicate that most wives were employed on a part-time basis only. Full-time year-round jobs were held by only about 46 percent of the married women. What these data demonstrate above all is that millions of married women in America, including women with small children, primarily went to work in order to supplement the family income. Ever more married women are engaged in a heroic balancing act, seeking to reconcile the needs of their families with the demands of their jobs. For most there is little doubt where their allegiance lies and why they are engaged in such a seemingly superhuman struggle. At the same time, it has also become apparent that the American notion of what constitutes "the good life" can no longer be realized on the income of one wage earner alone, but requires a household economic team of two. In the words of the economists George Sternlieb and James W. Hughes, "Had wives not gone off to work, American families, in the aggregate, would have suffered substantial declines in real incomes."[14]

The primacy of the family over that of merely a career for a vast number of women is further born out by studies on the effects of flexible work schedules on family life. The researchers, Halycone Bohen and Anamaria Viveros-Long, analyzing the responses of 700 workers in two Federal agencies in Washington, D.C.,[15] report that women, characteristically, are found to have less demanding and absorbing jobs, even when they have comparable education and training. They conclude that "this disparity is due less to discrimination, in the view of our interviewees, than to the fact that they *chose* less demanding jobs because of their greater involvement in—and responsibility for—their children on a day-to-day basis."[16] For these interviewed workers, the availability of flexible work schedules was perceived to be of great benefit, as it allowed them to spend more time with their families.

One study after another gives further credence to the continued commitment of American women to the family, the welfare of its members, and to the family household.[17] After more than 50 years of viewing the family as standing on its last legs and individuals defecting from it in droves, even more narrowly focused researchers have to concede the continuing importance of this institution in the lives of most ordinary people. American women themselves, it seems, have rarely strayed from this commitment. In order to contribute to the well-being of their families, they entered the paid labor force in the first place. It is for this reason that they have been primarily drawn to those types of jobs that offer opportunities for part-time and flexitime work schedules. By the same token, it is precisely these types of careers that permit easy exit and reentry, and that can be reconciled to their life plans, plans in which the family and children play a central role. Teaching, nursing, clerical work, and the like are the type of jobs that, in a felicitous way, allow for a reconciliation between the world of the family and the world of work.

At the risk of being redundant, let me provide a final footnote to this aspect. Studies on the income differential between male and female doctors, as well as between male and female lawyers, demonstrate that the measured difference in income is not so much due to subtle and intangible discrimination, but rather it is primarily due to the fact that women prefer to work in a branch of medicine or law that permits them to give time to their families and children.[18] The income differential between the genders decreases in those cases of married professional women who do not have any children. In those cases where clear gender discrimination can be established—as has, indeed, been the case in a number of instances—the legal frame for restitution provided by the civil rights acts of the 1960s has proven itself to be an effective measure.

Failing to recognize that the vast majority of American women continue to look on the family as the most significant and lasting fact in their lives places the proponents of comparable worth into a position oddly removed from American realities. In the heat of their argument they are falling prey to an exaggerated ideology of work that is difficult to sustain on closer examination and that they would be the first to denounce in any other context. They may think the strong preference American women hold for their families is irrational and misguided, but who is to decide upon life priorities in a world that appears to become ever more complex and abstract and uncontrollable? Shrinking away from subjecting their agenda to sustained social-philosophical considerations and unwilling to proclaim the pervasive attachment to the family to be an obstacle to equal opportunity, comparable worth activists are about to relocate the quest for equality and justice from politics to economics. Dismissing and ignoring, without consideration, the broader context in which women and work are embedded, a complex individual and social network of practices and meanings is being turned into a question of grubby power politics.

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[14] As reported in *The New York Times*, June 17, 1983.

[15] Halycone H. Bohen and Anamaria Viveros-Long, *Balancing Jobs and Family Life* (Temple University Press, 1981).

[16] Ibid., p. 212.

[17] Theodore Caplow et al., *Middletown Families: Fifty Years of Change and Continuity* (St. Paul: University of Minnesota Press, 1982).

[18] Institute for Research on Poverty, University of Wisconsin, research report.

By the same token, it can be argued that the various advocacy groups supporting the politics of comparable worth today are unwittingly superimposing an elitist vision of what constitutes the value of work upon an unsuspecting society. This hidden, but nonetheless real, dimension of the comparable worth issue becomes evident when the job evaluation model sponsored by comparable worth activists is placed into a broader perspective.

At the core of the comparable worth notion is the desire to replace market mechanisms determining the value of a particular job with governmentally designed and enforced mechanisms. In this, the comparable worth proposition goes beyond the congressional acts of the 1960s and takes them into new and uncharted directions. In spite of assurances to the contrary, a central system of government-dictated wages appears to be the inescapable long-range consequence of the currently advocated step process.[19] Faced with this fundamental transformation of the economic sphere and, beyond that, of American society as a whole, great care needs to be taken to understand what precisely is involved here. And again, out of the plethora of problems that will have to be assessed before this proposition can be put into practice, one aspect only will be addressed here. It is one of the foremost issues to my mind, as it has the potential of doing irreparable damage to the fabric of American social life.

In the widely quoted study on comparable worth commissioned by the Equal Employment Opportunity Commission, *Women, Work and Wages: Equal Pay for Jobs of Equal Value,*[20] considerable attention is given to the possibility of constructing a job evaluation model that would be free from what is thought to be discrimination against women. The present state of the art of job evaluation, it is held, is fairly primitive. If not actually arrived at a whim, the concrete amount to be paid for a particular job is determined by its market value subject to well-known market mechanisms that discriminate against women to begin with. The practice commonly in use depends upon job evaluation plans that have been employed since the 1930s: A number of factors representing differences in education, skills, complexity of the job, responsibility, working conditions, and so on are used to score the numerical value of a particular job. A brief look at the scores of typical male and female jobs arrived at by the job evaluation consultant Norman Willis and Associates that figured so prominently in Federal District Judge Jack E. Tanner's decision against the State of Washington[21] may serve as an illustration for what is at issue here. So, for instance, the scores for typically female jobs as administrative assistants correspond to those of typically male jobs as wildlife agents (247 points), office supervisors to construction coordinators (223 points), accounting assistants to electricians (192 points), secretaries to campus police (187 points), licensed nurses to park rangers (182 points), and clerk typists to truckdrivers (94 points).

On the basis of this type of juxtaposition of job evaluation scores, comparable worth advocates make their argument for the existence of gender discrimination in the market. Not yet ready to anchor demands for reparation to the inclusion of "typical female" qualities such as smiling, nurturing, etc., into the job evaluation model—for the argument could well be turned around, resulting in demands for the inclusion of such "typical male" qualities as assurance, calm, etc.—the current tendency is to reason on the basis of education. There is little doubt that a variety of women-dominated occupations correlate with higher educational levels—as measured by number of years spent in educational institutions and credentials received—than equivalently scored male occupations do. Many analysts reason that education is but one of a variety of factors in determining job scores. Others, such as political factors (vide the role of labor unions) and economic factors (vide crowding) are equally important. It is of some importance, therefore, to take a closer look at the upgrading argument on the basis of credentials.

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[19] Treiman and Hartmann, *Women, Work, and Wages*, and Heidi Hartmann, "The Case for Comparable Worth," in Phyllis Schlafly, ed., *Equal Pay for Unequal Work* (Washington, D.C.: Eagle Forum Education and Legal Defense Fund, 1984), p. 16.

[20] Treiman and Hartmann, *Women, Work, and Wages.*

[21] Norman D. Willis and Associates, "State of Washington Comparable Worth Study," Phase I, 1974, and Phase II, 1976. Paper available through Norman D. Willis Associates, Seattle, Washington.

Women today attend college in larger numbers than men. Their choice of subjects, as well as their choice of major fields of specialization, has substantially changed in comparison to previous decades. Their academic pursuits today are more in line with the general transformation of the occupational structure in the United States, with some significant exceptions in technical and engineering disciplines. Nonetheless, as demonstrated earlier, women continue to gravitate towards job categories that do not pay high wages. As pointed out as well, even if women enter into what were previously thought to be typically male, high-status, high-income positions (medicine, law, and business), their aggregate income is considerably below that of their male counterparts. My earlier argument sought to explain this phenomenon in terms of women's occupational preferences: both career pattern differences as well as income differences can be explained—and to my mind convincingly—in terms of women's priorities and overall life plans. Thus, these measured differences have little to do with discrimination on part of employers, markets, or anyone else. In arguing for awarding higher value to educational credentials in a bias-free job evaluation model yet to be constructed, comparable worth activists fall prey to a credentialing bias that has little to do with the value of work. If this comparable worth vision should take hold and become the accepted definition of the value of work in America, a blatant antiworking class and antiblue-collar work bias will be introduced under the disguise of justice and equality.

In this, comparable worth entails an implicit irony: it is supposed to benefit women workers, when in fact it discriminates against the poorest and neediest among them.[22] For when all is said and done, comparable worth, if enacted, would benefit in the main the type of white-collar credentialed jobs in which women predominate. In turn, it would discriminate against that large category of manual and service jobs that are the only opportunity for making a living for a substantial portion of American women and men. In light of the more than 40 percent of inner-city young—and not so young—who, in Bayard Rustin's terms, are "unemployed and unemployable," the comparable worth proposition is a difficult notion to accept.

Lest I be misunderstood, let me take the opportunity here to emphasize that my exposition of the credentialing bias contained in the comparable worth argument does not in any way imply that the market is fair or that any one of the occupations under discussion does not merit higher wages. On the contrary, I think a good case can be made for the financial upgrading of quite a number of job categories regardless of the gender question. So, for instance, the argument of the national need for higher wages for teachers, a much discussed current item on the public agenda, deserves a serious hearing. In a democratic society like ours, there exist all sorts of options and avenues for this purpose that can be and should be utilized. They range from the politics of unions to those of occupational associations. What I am firmly opposed to, however, is arguing for financial upgrading of occupations on the basis of gender discrimination. Such efforts, aside from being based on wrong premises, entail—to my mind—grave consequences for the fabric of American society.

In the final analysis, the notion of comparable worth, disregardful of the commitments and meanings held by the vast majority of ordinary American citizens, is disturbingly at odds with American values and realities. It is one of the more aggressively elitist visions of modern life that has surfaced in recent decades. If translated into practice, it would radically transform American life. In sum, the notion of comparable worth has the makings of an American tragedy.

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[22] A similar argument, though based on a different, economic perspective is brilliantly made by George H. Hildebrand, "The Market System," in E.R. Livernash, *Comparable Worth: Issues and Alternatives.*

PANEL

Comparable Worth Doctrine and Its Implementation

Comparable Worth: A Practitioner's View

By Alvin O. Bellak*

The doctrine of comparable worth is most commonly defined as calling for equal pay for males and females doing work requiring comparable skill, effort, and responsibility under similar working conditions. Although State laws that we have reviewed generally say something like this, none of them define what is meant by skill, effort, responsibility, and working conditions. The laws of Alaska, Maryland, and Massachusetts are even less specific; they refer to work of "comparable character" without even a suggestion as to what constitutes comparable character. In West Virginia, comparable character refers only to work that requires "comparable skills."

The organizations seeking to implement the laws have interpreted their mandate to mean that they must install a single job evaluation system throughout the entire organization and then develop a single pay structure to parallel the evaluations. At the moment, the only large employers moving aggressively to implement the laws are the States themselves.

In the private sector, in those States where the comparable worth laws apply to *all* employers, there is considerable foot dragging. A recent event is giving the private sector even more reason to slow its response.

The Tanner Decision

Although still not the last word on comparable worth, what is being called the "Tanner decision"[1] has attracted great attention. In brief, U.S. District Court Judge Jack E. Tanner ruled that the State of Washington commissioned and accepted a job evaluation-based compensation study showing that female-dominated jobs were paid less than male-dominated jobs of comparable measured value. Then, according to Tanner, over a considerable period of years the State knowingly failed to correct for its past and continuing discriminatory practices.

The State will appeal the decision on the grounds that:

(1) The State did not adopt a job evaluation methodology to set salaries.

(2) The State paid its employees consistent with the market which is not prohibited by Title VII of the Civil Rights Act of 1964.

(3) The court applied the concept of disparate impact to a *compensation* case with little established precedent.

(4) The court did not allow the State to introduce its principal defense, namely, that its method of paying employees was based on valid factors other than sex.

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* General Partner, Hay Associates.

[1] AFSCME v. State of Washington.

The suit is a "failure to pay" case, not a comparable worth case. Therein lies a potentially ominous aspect for organizations that use job evaluation. AFSCME sued on the grounds that the State established, by its own job evaluation studies, that employees in female-dominated jobs were paid less than in male-dominated jobs for the same or very similar job evaluation points (i.e., that the State discriminated against those in female-dominated jobs and has done nothing about it). AFSCME said the State must "pay up" for its *admitted* discrimination. Judge Tanner agreed.

Does this now mean that any organization which does job evaluation and then prices[3] female-dominated jobs lower than male-dominated jobs with the same points has thereby admitted discriminatory pay practices and liability? Despite the Tanner decision, expert opinion remains divided. It appears to us that the ultimate decision will depend on whether or not paying the prevailing wage in the marketplace, or what is determined to be the necessary wage, is judged to be a valid and nondiscriminatory basis for differential pay.[3] But this is getting ahead of our story.

Based on events to date, how do we advise our clients? Comparable worth, or the evolving new terminology "pay equity," is increasingly being used as a basis for pay discrimination suits.

Our best understanding is that it is *not* the law of the land at this time and will not be until either Congress passes new, specific legislation or the Supreme Court makes a definitive interpretation in a Title VII case. However, by our last count, 6 States have comparable worth laws that apply only to themselves as employers and 13 have such laws that apply to all employers. In addition, 10 or so States have new bills under consideration, and the U.S. Congress is beginning to entertain such legislation for Federal employees.

Does Hay Have a Position on Comparable Worth?

The Hay Guide Chart-Profile Method of Job Evaluation[4] was created in the early 1950s, long before the Equal Pay Act of 1963 and the Civil Rights Act of 1964. A fundamental principle, quite revolutionary at the time, was that one evaluates jobs independent of the existing pay scale or the labor market as the basis for an internally equitable compensation system.

From the very beginning we additionally advised that jobs should be priced in relation to their measured job content (i.e., points) without regard to the ability, performance, potential, education, sex, color, or any other characteristic of the jobholder. Implicit in our ultimate pricing recommendations to clients was the principle that jobholders were drawn from, and, therefore, should be paid competitively with, a defined labor market.

Where it made sense to define the labor market broadly, we would make comparisons with the total Hay compensation comparison survey; where it made sense to define the market more specifically, we would make comparisons with heavy manufacturing companies, or the food companies, or the local nonexempt labor market, or whatever labor market slice was relevant to a particular client.

Over the years, as labor markets become evermore differentiated, we increasingly recommended that our larger and more diverse clients should consider multiple pay structures. But, we recommended, invariably, that when a client adopted multiple pay structures, *all jobs* covered by *each* single, specific pay structure should be priced on that structure in relation to relative job content as represented by evaluation points.

Thus, the Hay position is, and always has been, that:

(1) each pay structure should be positioned against the appropriate competitive labor market,
(2) all jobs covered by a single pay structure should be priced in proportion to measured job size, and
(3) variations in actual pay among jobholders within or beyond the resultant pay range for jobs of a given size should be based *only* on truly business-relevant factors such as individual merit, qualifications, seniority, or individually negotiated

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[2] In the jargon of compensation, for an organization to "price" a job is to set its rate; it may actually pay the jobholder(s) more or less than this amount, usually depending on such things as seniority, quality of performance, etc.

[3] In Briggs v. City of Madison, the city classified public health nurses (predominantly female) lower than public health sanitarians (predominantly male) for pay purposes. The court agreed that the nurses were comparable to, or exceeded, the sanitarians in the requirement for skill, effort, and responsibility, but accepted the city's detailed market studies which showed that the city had to pay the sanitarians more in order to attract and retain them.

[4] A.O. Bellak, "The Hay Guide Chart-Profile Method," in M.L. Rock, ed., *Handbook of Wage and Salary Administration*, 2nd ed. (New York: McGraw-Hill, 1982).

differentials (e.g., a key employee or a very high potential person gets a hard-to-refuse offer elsewhere).

Is that not comparable worth? The new element in recent years is the challenge to the fairness and the heterogeneity of the labor market.

Elements of the Debate

For example, a manufacturing company in heavy industry could have its nonexempt, nonunionized, white-collar office jobs evaluated on a sound, custom-designed system and then priced appropriately in the local labor market. It also could have its nonexempt, unionized, blue-collar factory jobs evaluated on a jointly agreed labor-management system (like the CWS system in the steel industry) and priced appropriately under a negotiated union-management agreement.

Assume, realistically, that the nonexempt white-collar work force is female dominated and the nonexempt blue-collar work force is male dominated. If Hay were to convert the office and factory job evaluations to a common scale, the female-dominated jobs having the same point values as male-dominated jobs typically would show lower average wages or salaries.

The pay equity advocates now yell "Foul!" and the debate begins.

- Free market advocates: Every job is priced fairly and consistently under the conditions that exist in a free society.
- Pay equity advocates: The labor market is distorted, discriminatory, probably even controlled. Eighty percent of all working females are found in only about 20 job classifications. And we have data showing that the more a job class is dominated by females, the less it pays.
- Economic stability advocates: Whatever the pay equity issue, it is too expensive and disruptive to equalize the pay of males and females in one fell swoop.
- Pay equity advocates: That is the same tired argument offered when child labor laws and wage and hour laws were proposed. As a matter of fact, that argument was heard when it was proposed to abolish slavery!
- Business advocates: You just don't understand.
  (1) If we do what you say, we'll have to raise our product prices and thereby lose market share against our international competitors.
  (2) Our employee turnover rate is not a problem. When we need new people, we get reasonable numbers of qualified applicants for blue-collar and white-collar jobs at the wages and salaries offered.
  (3) It's not our doing that, even with affirmative action, the vast majority of the qualified applicants for the office jobs are female and the factory jobs are male.

And so it goes.

Who's right? Any of them? Some of them? All of them? None of them?

The Role of Job Evaluation in Establishing Comparable Worth

For various reasons, many organizations, both public and private, have used job evaluation in one or more segments of the whole. Where their purpose was to establish internal equity for compensation purposes, they said, in effect: This is the rank order of pay were we free to pay as we choose. The job evaluation method used would have been selected to have compensable factors and weightings that reflected the value system of the organization. The application of the method would have produced evaluations that made sense to the organization.

Historically, a large and diverse organization that wanted job evaluation in all segments and at all levels of the whole would have, in virtually 100 percent of the cases, used two, or three, or more job evaluation methods. We, ourselves, do not know of a single case, in all the years before and after the legislation of 1963 and 1964, where a large and diverse organization in the private sector concluded that a single job evaluation method, with the same compensable factors and weightings, was appropriate for its factory, office, professional, management, technical, and executive personnel in all profit center divisions and all staff departments.

Since neither Hay nor anyone else can prove the inherent validity of any method of job evaluation, it is quite understandable that large organizations have selected multiple methods to be applied to the multiple segments. The resultant evaluations are, therefore, valid only to the extent that they are credible.

Credible to whom? It is common for top management to impose a job evaluation method. They may "purchase" an established or custom-designed method from an external agent; they may have their own personnel staff apply an existing method or design one. Whatever the case, the method is acceptable if it is credible to management and, directly or indirectly, to the employee body that is affected. In our experience, the vast majority of organizations (certainly our clients) go to great lengths at the time of installation to "sell" the method to those affected. They do this through formal communications programs but, more important, by involving employees in the process. For example, employees serve on evaluation committees. They sustain credibility over time by rotating committee members, by an appeal process allowing jobholders to argue that a job was not properly understood when evaluated, by updating and reevaluating jobs as they change, and by continuous education programs via booklets, tapes, sound and slide shows, and the like.

Where the employee segment is unionized, the common practice is for labor and management to negotiate agreement on which job evaluation method is to be used and to work jointly on its installation and maintenance. This process works remarkably well. Serious disagreements on evaluations are infrequent; there is usually a provision for arbitration if things come to an impasse; such impasses rarely lead to strikes.

The net result of all this is that job evaluation is, at its best, a disciplined, objective process for rank-ordering jobs on an agreed compensable value scale. It works because it essentially satisfies the common interest of, as it were, the governors and the governed.

In a large, diverse organization, where various segments of the total work force see themselves as substantially different from other segments, is it any wonder that several job evaluation methods are commonly employed? With multiple job evaluation methods, each with its own constituency, how does one establish the relative worth of jobs across segment lines for the organization as a whole?

Having discussed the issues in applying a single job evaluation method across multiple segments of a large and diverse organization, are we thereby concluding that it cannot be done? Of course not. We have done it quite successfully many hundreds of times. In the private sector it is common for the Hay guide chart-profile method to be applied to *all* (or virtually all) exempt positions in the company: corporate headquarters and the operating entities; all management, professional, technical, and executive jobs. In many cases, within the same company, it has been applied to the nonexempt office jobs as well. In a few small companies it has been applied to every job in the organization, including blue collar. Where it has been so broadly applied, it is because (1) we have been able to demonstrate that our methodology is conceptually sound, the compensable factors appropriate, and the installation process workable, and (2) the client made a deliberate effort to gain explicit or implicit acceptance from the employee constituencies affected.

Most interestingly, it has been in the public sector where the guide chart process has most frequently had the broadest application. Among the more publicized instances is the city of San Jose, where every job, excluding only the uniformed classes, was evaluated as part of a comparable worth project.[5] And why was the installation successful? In addition to the merits of the Hay guide chart-profile method, it was because the city of San Jose followed the best of practices in the installation. Specifically, there was before-the-fact agreement by the union and city management to use the Hay system, and the evaluations were performed under Hay leadership by a committee that included males and females, union and nonunion employees, and management and nonmanagement personnel. In short, they achieved consensus. With consensus comes credibility and acceptance.

The so-called Hay system has been applied to civil service employees in more than 20 States and in an uncounted number of cities and counties, some with and others without comparable worth laws. Where the political climate has not interfered, we have been very successful. Where the reverse has been the case, or where our methodology was forced on unwilling constituencies, the experience has been unhappy.

Job Evaluation and the Legal Challenge

If job evaluation can be successful in comparing apples and oranges with a single process and within a climate that permits and fosters consensus, can it also be successful when subjected to legal challenge?

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[5] See R.L. Farnquist, D.R. Armstrong, and R.P. Strausbaugh, "Pandora's Worth: The San Jose Experience," *Public Personnel Management*, vol. 12, no. 4, Winter, 1983.

In a recent speech,[6] Robert E. Williams, of the law firm of McGuiness and Williams, said:

> . . .[there is no job evaluation system] that can establish to a *legal certainty* that job X is worth as much as job Y where the immediate parties involved do not agree that this is so on their scale of values. [emphasis added]

In a recent statement on pay equity,[7] Clarence Thomas, Chairman of the EEOC, wrote:

> In deciding a comparable worth claim, a court would be compelled either to evaluate the validity of the job evaluation system including any external factors used by an employer or, in the absence of such a system, determine the relative worth of the job in question by a comparison of it to other jobs in the employer's establishment. . . .Courts have been generally unwilling to do this.

Job evaluation is not an *absolute* measurement process. Therefore, if job X has as many points as job Y, it is because thoughtful and disciplined application of a system using appropriate compensable factors has concluded that it does. If the Hay guide chart-profile method were the measurement instrument involved, we would be willing to go into a court of law and explain our process and explain why the evaluators concluded that job X had as many points as job Y. But could we *prove, to a legal certainty,* that job X is inherently, absolutely, unequivocally worth as much as job Y? The answer is "No." We only could explain why, in the context of the organization and its value system, it was ranked the same.

At the moment, to the best of our knowledge, the comparable worth cases have to do almost exclusively with challenges to pay, as in "job A has the same points (or otherwise arguable comparable worth) as job B but is paid less." We predict that it won't be long before there is an additional challenge, as in "job D would have as many points as job E if the job evaluation system was appropriate for the kind of work performed by job D" (i.e., if it had "correct" compensable factors or the existing factors had "correct" weighting). What will the judges do with this allegation where the organization has a single job evaluation system applied to all jobs? Would the plaintiffs not be permitted to challenge the validity of the method used to measure the skill, effort, responsibility, and working conditions of their jobs? Could they not produce an army of experts to testify on their behalf?

Job evaluation is truly a useful process. It can bring order and rationality and consensus where there might otherwise be confusion and even chaos. It surely has helped to bring a good measure of fairness to compensation programs. But it has its limitations.

Pay Differentials in the Labor Market

Now, let's suppose that there was a universal method of job evaluation, and it did produce absolute truth for every variety of job in every variety of public or private organization. Let's further suppose that, for a single large and diverse organization, we plotted the pay for each and every jobholder against the evaluation points for his or her job. What would we find?

To be sure, we would find a very broad scatter of point-pay relationships, but in a very clear trend showing that pay increases in rough proportion with evaluation points for the organization as a whole. (We have over 30 years worth of data to prove this.)

Now, suppose we were to dissect the whole and plot a point-pay scattergram for various segments of this large, diverse organization and calculate a trend line for each resultant array. What would we find? Very probably we would see almost as many different trend lines as there are segments:

- *Unionized blue-collar factory.* There could be as many different trend lines as there are separate union-management agreements.
- *Nonunionized white-collar office.* Lower trend lines generally than the unionized blue-collar factory segment.
- *All nonexempt.* As many trend lines as there are distinct geographic locations, with the highest line being as much as 30 to 40 percent above the lowest line.
- *Functions.* Many differences in trend lines with some being very dramatic. At this time, for example, systems and data processing jobs have much higher pay lines than personnel jobs.
- *Divisions.* In the private sector, growing glamour product divisions (e.g., electronic office equipment) with high trend lines, the old "low-tech" product divisions (e.g., metal castings) with lower ones.

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[6] Delivered to the American Arbitration Association, Jan. 23, 1984.

[7] Submitted to the House Government Operations Subcommittee on Manpower and Housing, Feb. 29, 1984.

- *Female-dominated nonexempt jobs in general.* Usually lower trend lines than male-dominated nonexempt jobs, perhaps even where both are in the same union at the same location.
- *Management, professional, and technical.* Generally no systematic differences in trend lines for males vs. females.

All of this in a single, large, diverse organization, in either the public or private sectors: the same points with substantially different pay in various segments of the same organization. Is this chaotic management? Is it discriminatory management? Or is the organization simply doing what it has to do to get and keep the people it needs? It prices jobs at what it considers to be competitive rates in the various labor markets from which its people are drawn.

The market for people is differentiated—so differentiated, in fact, that we felt compelled to develop the Hay access compensation data bank. We can collect, display, and compare point-pay trend lines by individual jobs, job families, career hierarchies, and by geography, by function, by business sector, by organization size, and so forth.

The doctrine of comparable worth calls for the same pay for the same points in all cases. But it must contend with multiple labor markets—with their very wide diversity of pay for the same points and the many forces influencing pay levels. Therefore, to achieve full comparable worth would require an organization to override different prevailing rates in different labor markets for jobs that it judged to be of comparable value within its own organization.

In the pay equity debate, the intent of the advocates is, openly and unashamedly, to increase the pay of women. But the laws as written are very broad and specify differential pay only for seniority, performance, and the like. Thus, it would appear that, under the comparable worth doctrine, all organizational segments would have to be paid on the highest trend line selected for any segment.[a]

But, if all pay lines in an organization must rise to equal the highest one, we foresee a host of new issues:

- Would the unions give up their right to negotiate contracts independent of the pay arrangements in the other segments of the organization (i.e., would unions B, C, D, E, etc. have to agree to the same point-dollar relationship as union A which signed the first agreement)?
- If the individual unions negotiated jointly with management for the same point-pay relationship, would there be any need for more than one union?
- How would an organization entice people into jobs where there were shortages, because of distasteful work, if there were not premium pay for the same points, or more pay for fewer points (as in the sanitarians-nurses case previously cited)?
- Would a company's division A, which pays only a salary, have to increase its compensation level if its division B wisely introduced a motivational incentive plan suitable for its industrial sector?
- Must a State pay the same dollars for the same points to employees who work and live in a low-cost rural area as they do to employees in the high-cost large cities?
- Must a high-tech company raise the pay of its accountants (male dominated) to equal the pay of its engineers (also male dominated) for the same points?

In the pay equity debate, the advocates raise the issue of simple fairness. For example, any thoughtful person would have to wonder about the fairness of the pay of college-trained nurses and librarians vs. the pay of semiskilled auto and steel workers (at least before the givebacks). But the labor market is replete with this sort of thing—even where sex domination either does not exist or where it is clearly not a factor; professors of physics and engineering vs. their recent former students working in Silicon Valley; highly skilled professional athletes vs. highly skilled surgeons; musicians in a professional symphony orchestra vs. master craftsmen; State Governors vs. company presidents; the president of a division of American Express vs. the chairman and chief executive officer of American Express itself (at least true for 1983); successful female models, age 15 to 20, vs. almost any other successful person of comparable age with comparable skill, effort, and responsibility. The list is endless.

None of this is to suggest that we see nothing that looks like discrimination in the labor market, because we do. None of this is to suggest that we see the labor market as being entirely free, because it is not. We are concerned that, in our haste to address the issue of fair pay for women, laws are being passed that may open a Pandora's box of serious new problems—before we have had time to analyze thoroughly and think through the probable and potential consequences of our actions.

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[a] In Bartlett v. Berlitz School of Languages of America, a court of appeals held that plaintiffs in one unit of Berlitz could use wages in separate and different units of Berlitz to prove pay discrimination under Title VII.

Advice to Employers

Given our analysis of the issues in comparable worth, and within the existing climate of uncertainty and controversy, our advice to employers is as follows:

1. Base the compensation system upon clear and complete definitions of specific jobs. These jobs must be so designed and defined as to not restrict participation for any protected class unless one can demonstrate a necessary and irrefutable occupational requirement.
2. Identify the extent to which each job or job family or occupational family is dominated by a protected class. The common definition of "dominated" is 70 percent or more. Where domination exists, determine whether it stems from business necessity or is simply a matter of custom, convenience, or indifference. In the latter instances, we recommend actions to reduce or remove the domination. One well-known attorney has gone so far as to suggest that when openings in male-dominated jobs appear not only should the openings be posted, but that female employees be specifically invited to apply; rejection of the invitation by a female should be recorded in her own hand. This sounds extreme to us. More suitable actions to balance the work force might include focused ex[illegible] recruiting, in-company training, or subsidized external training.
3. Where many employees hold the *same* job, whether this job is dominated by a protected class or not, test for *equal pay* for *equal work*. This is the law. It would also be prudent to test for equal pay in jobs that are very similar, although not equal, and where one or more are dominated by a protected class. At least one Federal district court has found illegal discrimination in such an instance without using job measurement or task analysis.[9]
4. Where the organization says that it has no job evaluation plan and that it uses a strictly market-pricing system, do the descriptions of grades or job families suggest or indicate some de facto form of job measurement? For example, slotting jobs that could not be market priced into the pay scale could be labeled "whole job ranking," a technique recognized in all the text books as a specific method of job evaluation. Because it is a crude method, it would be particularly difficult to explain and defend.
5. Test the job evaluation process to determine if the results are repeatable as, for example, by committees with various combinations of knowledgeable members. Where protected class job domination is common, involve members of such classes in the job evaluation process.
6. Identify specific labor markets from which current and prospective jobholders are typically drawn. If a protected class dominates the labor markets that are used as a basis for job pricing, make sure that there are no reasonable alternatives.
7. Set typical or midpoint or single rate pay for each job in relation to job size on the same basis as for all other jobs that are drawn from the same labor market.
8. Test *any* compensation procedures that produce significantly different pay within a single pay structure for jobs of similar size. To the extent that any aspect of the administration of the compensation program produces unsupportable adverse effects for protected classes, change it. This would include the performance appraisal program, the size and frequency of merit awards, the level of starting pay in the range, and so forth.
9. Document and publicize the compensation program internally. If the program is sound, there is nothing to hide.
10. Perhaps above all, make sure that all jobs are open to all qualified applicants. An affirmative action program, combined with a well-conceived and supportable compensation program, is the certain route to the elimination of pay discrimination.

For us at Hay Associates, whatever comparable worth issues we see—with the laws as written, with job evaluation technology, with how an organization relates its compensation program to the labor market—recognizing issues does not mean that one simply walks away from them. Two States with new comparable worth laws have just engaged us to work with them on implementation. We continue to work with a number of States that have used our services for years—before and since passing comparable worth laws. We will seek new assignments with the States if we believe the climate will permit success. In the private sector, where there are some 1,800 organizations (in the U.S.) using our job evaluation and labor market survey services—and where there is growing concern occasionally bordering on alarm—we will continue to address the issues and offer our best counsel.

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[9] Taylor v. Charley Brothers involved female and male warehouse workers handling different products, but with no visible-to-the-eye requirement for different levels of skill, effort, and responsibility nor under different working conditions.

Using Job Evaluation to Obtain Pay Equity

By Donald P. Schwab*

Equity and Worth

Comparable worth advocates and critics agree that: (1) differential payments to employees should be made in an equitable fashion, (2) differential payments to employees should be made on relative worth, and (3) jobs or employees worth more should be paid more. There is no disagreement regarding the need for equitable payment or that equity should be thought of in terms of worth. The controversy centers on the *appropriate basis* for making equitable pay differentiations. This section identifies two perspectives on equity and worth that best serve to differentiate comparable worth advocates and critics.[1]

Before discussing these two views, however, it is very important to recognize that *any criterion of pay equity ultimately rests on value judgments.* There is simply no objective or scientific basis for differentially paying jobs or people without a prior value judgment regarding the basis for differentiating among jobs or people. Should pay be based on personal qualifications? An affirmative answer requires a value judgment that personal qualifications *should* serve as a basis of pay. Should pay be based on productivity? An affirmative answer requires a value judgment that productivity should serve as a basis of pay.

It is, of course, true that some bases of payment differentials may have consequences that may be more or less attractive (e.g., serve to reduce gender-related income differentials, serve to increase the productivity of organizations, serve to allocate people to jobs with minimum unemployment). But the choice of a differentiating criterion itself is a value judgment. Advocates and critics of comparable worth are arguing about the values that should determine pay differentials.

The Traditional Perspective

The traditional and still dominant perspective of employee worth and equitable pay differentials among business people and many economists results from an amalgam of two different schools of economics. One school, basic to all economic analysis, emphasizes the importance of external markets. What are registered nurses worth? They are worth what they can command in the market. Why do registered nurses receive higher average weekly wages than carpenters?[2] They do so because they can command higher weekly wages in the external labor market.

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* Professor, Graduate School of Business, and Industrial Relations Research Institute, University of Wisconsin-Madison.

[1] For a detailed discussion of alternative perspectives on pay equity, see Mahoney, 1983.

[2] Ward, 1982.

The importance of external markets for determining wage (and employment) levels and differentials is central in both classical economic theory and in neoclassical or marginal productivity theory. The latter has remained the principal economic explanation of micro wage-setting behavior for over 100 years. If the competitive assumptions of the theory hold, it can be deductively demonstrated that (in equilibrium) employee wages are equal to the productivity of the marginal employee in any occupation.[3] Registered nurses receive higher weekly wages than carpenters because they are more productive at the margin.

Marginal productivity theory is both normative and descriptive. It is normative in the sense that economists frequently argue that individuals *should* behave according to the theory's hypotheses to maximize individual utility and societal productivity. It is descriptive in the sense that economists frequently argue that the theory makes tolerably good predictions of economic behavior.

Using the external labor market has several advantages for the firm. First, although not as well as economic theory would predict, the external market does relate wages to productivity. Firms do substitute between capital and labor, and among different types of labor, as a function of the productivity and costs of those various resources. Second, wage rates and differentials related to the external market allow the firm to remain competitive in its labor costs. Third, use of the external labor market allows the firm to attract and maintain a labor force. Finally, at least until recently, wages related to the external labor market are perceived to be equitable by employees. That is, linking wages to the external labor market helps minimize dissatisfaction with organizational wage-setting policies.

If external labor markets worked precisely as hypothesized in neoclassical theory, we would not see firms using other criteria for wage-setting purposes as well, nor would we likely see the objections to their use now present. In practice, of course, the external market does not operate as efficiently as hypothesized in the theory. All sorts of constraints on wage setting exist. Many of these are external to the firm (e.g., unions, regulation), but some are internal (e.g., personnel policies).

Institutional economics, the second portion of the amalgam, can help us understand how these constraints operate on wage-setting practices of firms. Begin by recognizing that the constraints operating differ across different sectors of the economy. Labor markets are "balkanized."[4] Some labor markets operate much as hypothesized by neoclassical theory, but most are institutionalized in various ways. Two general forms of institutional markets exist.[5]

One of these forms is often referred to as horizontal labor markets. Such markets exist where employees have a strong commitment to their occupation (e.g., construction trades, medical specialties, law, and other professions). Frequently, such markets are characterized by substantial interfirm mobility. In short, external markets exist, and firms that employ such occupations typically look to those markets in setting wages. *In the private sector, job evaluation is seldom used for occupations in horizontally structured markets.* It is unnecessary; the external market, with its advantages identified above, suffices for pay-setting purposes.

The second general form of labor market is vertically structured, typically within single, large firms. In such markets, there are usually only a limited number of jobs or occupations where the firm hires from the external labor market, so-called "ports-of-entry" jobs. Ports-of-entry jobs tend to be entry-level positions (managerial, clerical, factory, skilled craft, or professional), where training is provided outside the firm (e.g., apprenticeships, public education).

Above those positions, jobs tend to be filled through internal processes involving various combinations of seniority and merit among existing employees. Thus, above ports-of-entry jobs there is some separation between the employee and the external market. Moreover, the results of these personnel policies (frequently encouraged by unions) are reinforced by several other characteristics of firms in vertically structured markets:[6]

1. Technological and administrative differences between organizations coupled with a high degree of specialization in large production units create jobs which are unique or nearly unique to particular organizations. Moreover, rapid technological or product changes result in nearly continuous modification of the content of many jobs. As a consequence, there is essentially no external market for some jobs (especially production jobs), because compara-

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[3] E.g., Rees, 1973, pp. 57–72.

[4] Kerr, 1954.

[5] E.g., Kalleberg and Sorensen, 1979.

[6] Schwab, 1980.

ble jobs in other organizations simply do not exist or are not known to exist. Likewise, employees who occupy such jobs acquire firm-specific skills that have limited value in the external market place.

2. Organizational technologies are typically structured so that demand for jobs is interdependent (e.g., as made necessary by process or assembly forms of production). Such joint demand serves to weaken the link between the wage rate for any particular job and employment decisions regarding it, including some jobs that are used widely across organizations.

Thus, jobs in vertically structured, internal labor markets can be thought of as falling on a continuum. At one extreme are *key* or *benchmark* jobs. These jobs tend to be fairly standardized (i.e., employed in many firms). Ports-of-entry jobs typically fall into this category as do some other nonentry-level jobs. Supply and demand conditions as hypothesized by marginal productivity theory apply reasonably well for key jobs. The firm's discretion in manipulating wages for key jobs is limited. Unless the external market is met, the firm will experience some difficulty in attracting and retaining a labor force.

At the other end of the continuum are jobs whose content is more or less unique to the employing organization. The notion of an external market clearly is not very applicable for such jobs. It is for these types of jobs that firms must find some alternative to the external market for making its wage-setting decisions. And within relatively narrow job clusters (groupings of similar jobs), firms sometimes use job evaluation to help establish wage differentials. Job evaluation, in turn, *at least theoretically,* uses job content criteria (e.g., working conditions, skill and experience required, responsibility demanded) to aid in the wage-setting process.

Thus, in the private sector at least, the traditional perspective of equity and worth is very heavily dominated by the criterion of external wage distributions. When external markets exist (e.g., horizontally structured markets and for key jobs in vertically structured markets), firms rely heavily on them for internal pay-setting purposes. Only where the external market *cannot* serve as the criterion (where it does not exist for jobs) do firms look to other criteria, and then only sometimes to formal job evaluation.

Comparable Worth

To understand the definition of worth emerging from comparable worth advocacy, one must be aware of several statistics, understand conclusions drawn by advocates from these statistics, and know some of the history of job evaluation, the Equal Pay Act, and comparable worth advocacy.

The principal statistic is that females, on average, earn less than males, on average, in our economy. This can come about even with effectively enforced equal pay for equal work legislation regarding gender because the law applies to job pay, not individual pay. Thus, for example, a firm could pay an individual male more than an individual female on the same job because the former had greater seniority or productivity than the latter.

It can also occur because females and males tend to perform different kinds of jobs in our economy. The external exchange rate deems women's jobs, on average, to be worth less than men's jobs. Thus, advocates find the external exchange rate to result in an unsatisfactory, gender-related wage differential.

Advocates have further concluded that at least some of the differential is due to discrimination.[7] That is, if other things were equal (they are not because females perform different jobs), females would be paid less than males. Although this conclusion is not shared by all those who have examined the evidence,[8] it is, nevertheless, the prevailing perception of those who advocate the notion of comparable worth. Consequently, *most advocates have rejected the external exchange rate as the basis for making equitable pay differentials.*

To understand the alternative definition that advocates are moving toward, we must examine some historical facts, beginning with job evaluation. In the United States, job evaluation was fairly broadly implemented in large firms during World War II, primarily as a result of policies of the War Labor Board.[9] Job evaluation then, and to some extent even now, was often billed by managements and their consultants as an objective (even scientific) method for measuring job worth. This rhetoric was probably motivated by the need to sell employees and unions on the legitimacy of job evaluation in part, but also partly by the naivete of the managers and their consultants.

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[7] E.g., Blumrosen, 1979; Treiman and Hartmann, 1981.

[8] E.g., Milkovich, 1980.

[9] Belcher, 1974, p. 92.

Switch now to the Equal Pay Act of 1963. In an attempt to define equal work precisely, Congress accepted language, with the encouragement of business, that has evolved from compensable factors found in many point job evaluation systems. Specifically, equal work was to be defined in terms of equality of skill required, effort expended, responsibility involved, and working conditions.[10]

With this background, we can see how a definition of comparable worth is emerging by those who advocate it. Advocates are motivated by the sex-related pay differential that they have concluded is the result of discrimination. They have seen *equality* of work defined in job evaluation terminology. It is thus a natural, but perhaps unfortunate, step for them to see the job evaluation methodology (recall, objective/scientific) as a mechanism for achieving equal pay when the work was not equal, but in some sense comparable.[11]

Thus, advocates of comparable worth are increasingly defining comparability of work in terms of similar skill requirements, effort, responsibility, and working conditions. To that end, they would implement job evaluation systems (or to use their term, comparable worth studies) to establish pay equality for comparable work.

Job Evaluation

Job evaluation is not, of course, an invention of comparable worth advocates. It has been used extensively in the public sector and more sparingly in the private sector for some time. An evaluation of what it is, and what it does, is necessary to determine its suitability for achieving comparable worth as it is being defined by the advocates.

Objectives

In the private sector, job evaluation is used primarily to account for two related, but somewhat different objectives. On the one hand, it is used by some firms to aid in establishing pay rates for those jobs that are not closely connected to external labor markets. That is, it is used to help decide on the pay rates for nonkey jobs in vertically structured labor markets as explained above.[12] Equally important, it is used as a mechanism for resolving conflicts that arise over equitable pay differentials, especially as they occur through time.[13]

Procedures

The two objectives, establishing nonkey-job wage rates and maintaining a balance between internal and external equity over time, are obviously closely related. However, job evaluation scholars tend to emphasize one objective or the other and have quite different perspectives depending on which objective they emphasize.[14] Those who emphasize the nonkey-job payment objective tend to be industrial psychologists and engineers, and they tend to focus on the measurement characteristics of job evaluation. Comparable worth advocates have clearly been most influenced by this perspective of job evaluation.

Alternatively, those who emphasize job evaluation as a mechanism for resolving conflict tend to be institutional economists and tend to focus on job evaluation as a political mechansim for resolving disputes. This perspective has not received adequate attention by those seeking to implement comparable worth, and that creates certain difficulties as identified below.

Setting Nonkey-Job Pay Differentials–The Measurement Perspective: When authors describe how job evaluation is used to help determine pay differentials for nonkey jobs, they usually focus on the *initial implementation* of the system. When initially installed, organizations in the private sector tend to take one of two approaches (although as in the case of key and nonkey jobs, it is more appropriate to think of these approaches as falling on a continuum).

At one end of the continuum, implementation proceeds very much as empirical validation in employee selection. The steps are outlined in figure 1. When empirically validated, a specific distinction is drawn between the development of job evaluation that utilizes key jobs and its subsequent implementation on nonkey jobs. Development typically begins with the tentative identification of compensable factors. Although plans differ in compensable factors, there is considerable redundancy in plans. Skill, responsibility, effort, and working conditions (major categories in the original National Electrical Manufacturers' Association plan) recur time and again. These compensable factors are then usually assigned tentative, a priori weights based on judgments about the relative importance of the factors.

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[10] Williams and McDowell, 1980.

[11] E.g., Collette, 1982.

[12] Schwab, 1980.

[13] Livernash, 1957; Milkovich and Newman, 1984, p. 95.

[14] Schwab, 1983.

Figure 1
Job Evaluation Development and Implementation

Development (performed on key jobs)
- Identification of compensable factors
- Specification of a priori weights
- Modification of factors and weights to obtain a correspondence between key job wages and job evaluation results

Implementation (performed on nonkey jobs)
- Modified model applied to nonkey jobs
- Nonkey jobs hierarchy developed and compared with nonkey job wages

Source: D.P. Schwab, "Job Evaluation and Pay Setting: Concepts and Practices," *Comparable Worth Issues and Alternatives*, ed. E.R. Livernash (Washington, D.C.: Equal Employment Advisory Council, 1980), p. 63.

A sample of key jobs is then evaluated using the factors in accordance with whatever a priori weighting scheme is adopted. At this point, the order of the key jobs resulting from the evaluation is compared to the order of the wage rates for those jobs. The wages may be the current rates for the key jobs or may be summary values from a market survey. In any event, it is important to recognize that *a judgment is made that the wages for the key jobs used in the developmental portion of the study are correct.*

The comparison between wages and compensable factor scores is often done with regression using the model:

$$W = a + \sum_{i=1}^{n} b_i X_i$$

where:

W = wage estimated by the model
a and b_i = constant derived weights
X_i = compensable factor scores

The constants, a and b_i, are derived so the deviation between actual wages (current or survey) and predicted wages (from the model) is minimized. This procedure thus specifies weights in terms of the factors' contributions to explaining (predicting) variance in the wage distribution. For any particular factor, this contribution depends on the relationship between the factor scores and wages, and the factor scores and the scores of other factors—not on the initial a priori weights.

Often the initial choice of compensable factors and sample of key jobs will not result in an acceptably high (judgmentally determined) correspondence between wages and compensable factor scores. When this is the case, adjustments are made in compensable factors, in the sample of key jobs, or in yet other ways to improve the predictability of the wage criterion. The major point is that a number of judgmental adjustments are oftentimes necessary before the system provides "acceptable" results.

When the regression model is deemed satisfactory, it is then applied to the nonkey jobs for pay-setting purposes. That is, nonkey jobs are evaluated using the compensable factors as weighted in the regression model developed on key jobs. The final hierarchy of jobs is, in effect, determined using a weighted composite of factors that correlate with wages for key jobs.

Again, however, considerable judgment is employed. For example, it is customary to raise wages for nonkey jobs that the model suggests are underpaid. However, jobs reported to be overpaid by the model seldom experience nominal wage cuts. Rather, compensation administrators tend to "red circle" these jobs with the intention of holding down wage increases to those jobs as the general wage level increases with time.

Validation of a job evaluation system at implementation is often called *policy capturing* because the market is captured through the empirical weights assigned compensable factors. Not surprisingly, therefore, advocates of comparable worth have objected to this method of implementing job evaluation. They do so because they correctly note that if there is discrimination in the wage hierarchy used as the criterion, this method of implementation will result in the discriminatory factors being included in the job evaluation weighting model. Discrimination in the market, if it exists, would be perpetuated by the job evaluation system.[15]

Some firms do implement job evaluation without formal validation. Such applications are more difficult to describe because there are many alternative ways this might be done. For example, in some cases no formal distinction is made between the developmental steps and implementation, and no formal statistical modeling is performed. That is, all jobs are evaluated at the same time, and the acceptability of the results is judged across all of the jobs without any regression analysis.

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[15] Schwab and Wichern, 1983.

Regardless of the specific implementation procedures used, the importance of the external criterion remains paramount. Even when not formally validated, organizations almost certainly will judge the acceptability of the results in terms of the existing wage structure. Changes in the system will be made, as in the case of validated systems, until the job evaluation system produces a job hierarchy that conforms fairly closely to the existing wage structure.

Conflict Resolution: The Evolution of Job Evaluation Over Time: Concern about, and conflict over, equitable pay differentials is a continuing feature of organizational life; it did not appear first with comparable worth advocacy.[16] In part, the conflict exists because employee interests differ from management's and interests differ within each of these groups. More important, however, are the conflicts that arise between perceptions of equity internal to the firm (which may well be shared by employees and management, and may well center on internal job content criteria) and the realities of external labor markets. These latter conflicts emerge inevitably over time because worths, as defined internally and externally, change more or less independently of each other across time. Worth of occupations, using an external criterion, changes as consumer preferences for products change, as employee preferences for occupations change, and as technologies change. Worth of occupations as defined internally, however, changes as job content changes. Over time then, these different criteria come into conflict even if they were brought into harmony when the job evaluation plan was initially instituted.

For example, external market changes may require a dramatic increase in wage rates for one occupation to attract a labor force. In such a case, the productivity of the job increases, but the content does not. Consequently, equity as defined in the external labor market dictates a pay increase for this occupation, but internal equity as defined by job content does not. A conflict arises between internal and external equity criteria. Note that this conflict may have nothing to do with differing interests between management and employees.

The second major objective of job evaluation, therefore, is to help resolve these conflicts. Institutionalists who have emphasized this perspective tend to view job evaluation as an administrative technique for accommodating competing interests regarding equitable pay differentials.[17]

Viewed from this perspective, job evaluation serves as a loose and *flexible* set of rules within which management and employees (and their representatives) can work out differences regarding relative pay rates. The extensive use of committees, frequently with employee representation, in job evaluation practice illustrates the objective of reconciling competing interests about appropriate pay differentials.

Probably the best single illustration of this second objective and its implications for the practice of job evaluation is provided by Kerr and Fisher (1950). In their analysis of the experience with job evaluation in the air manufacturing industry, they point out how the system must evolve through time to remain viable. To accommodate the stresses and strains resulting from changes in the external marketplace, Kerr and Fisher observed not only job reevaluation, inflation of job descriptions, and demoralization of merit pay systems, but changes in training programs, recruiting practices, and job redesign. In short, changes were made not only in the job evaluation system itself, but in other personnel systems in order to maintain the viability of the job evaluation system over time.

According to the institutionalists, modifications are necessary if the job evaluation system is to remain viable. "The more fixed, definite, and self-executing the formula (the formal job evaluation plan), the less will it allow for the other and perhaps more important pressures to which wage rates respond."[18] Clearly, the measurement orientation of those who focus on the initial implementation (objectivity, consistency, etc.) is at variance with the flexibility (accommodation, change, etc.) required to maintain the system.

Summary: Job evaluation is currently used by firms in the private sector to accomplish two purposes. In vertically institutionalized, internal labor markets, job evaluation is used to help set wage rates f nonkey jobs. Key-job wage rates are still taken from the external market. Indeed, such wages serve more or less formally as the criterion for judging the acceptability of job evaluation's predictions for nonkey-job wages. Second, job evaluation is used administratively to resolve conflicts about equitable pay differentials. These conflicts arise over time, particularly as external forces place stresses on a firm's internal pay structure.

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[16] Mahoney, 1983.

[17] E.g., Livernash, 1957.

[18] Kerr and Fisher, 1950, p. 94.

We know job evaluation does a satisfactory job of accomplishing the first objective. That is, at implementation there is a substantial amount of evidence that compensable factors can be weighted to predict key-job wages with a fairly high degree of accuracy.[19] Indeed, a variety of compensable factors can be used to achieve satisfactory predictability. Thus, models can be built on key jobs for use in setting nonkey-job wage differentials.

It is less clear how well job evaluation accomplishes the second objective. Our knowledge is constrained by the fact that very little research has looked at job evaluation from a longitudinal perspective. It is my personal experience, however, that firms change (or drop) their job evaluation systems fairly frequently. If this experience is common, then it suggests that job evaluation may not be sufficiently flexible to accommodate the changes in internal and external equity criteria that create stresses on the firms' wage structures.

Job Evaluation and Pay Equity

Advocates have hypothesized, and in some cases asserted, that evaluators are biased against predominantly female jobs.[20] That is, other things being equal, evaluators deflate (inflate) the scores of jobs held largely by females. Although there is little evidence on this important issue, experimental research to date does *not* support the hypothesis.[21]

At the same time, it must be recognized that job evaluation is not an objective system that can be operated without a great deal of human judgment. Different forms of job evaluation tend to yield quite different job hierarchies.[22] Even within a single system, different evaluators score jobs differently. Some of these differences represent unreliability or random error.[23] But, although the evidence is limited by lack of published research, some of the differences appear to be systematic (bias) as a function of differences in evaluators[24] or the environment in which they evaluate.[25]

Important as these sources of subjectivity and error are, they undoubtedly pale in significance when compared to the other judgments that get made when implementing job evaluation, and especially maintaining a system over time. What jobs will be included in the system? Will there be one or several systems? What sort of system(s) will be used? What types of compensable factors will be used? What jobs will be considered key jobs? What wages will be used to serve as the criterion? If the wages are to come from a survey, what firms will be included? Who will participate in the evaluation of jobs?

The list of questions and, hence, required judgments goes on and on. Moreover, answers to these questions are always tentative. Initially, they change based on the empirical results obtained as the system is implemented. Once implemented, they are subject to change as a function of the way internal and external criteria evolve over time.

With all of that subjectivity, one might legitimately wonder why firms use job evaluation at all. They do so, we have noted, because job evaluation is a useful mechanism for linking nonkey-job wages in vertically structured labor markets to external labor markets. No better mechanism has been found to accomplish this objective. With greater uncertainty, for lack of evidence, they also do so to accommodate changes in internal and external equity criteria through time.

Job evaluation can undoubtedly be used to accomplish the objectives of comparable worth advocates as well. After all, it is an inherently subjective technique. Just as it can be manipulated to scale jobs consistent with the external market (as is currently done by firms), it can be manipulated to scale jobs to ameliorate gender-related wage differentials (as advocates want). Indeed, job evaluation is already being used in this way in so-called comparable worth studies. Such studies differ from job evaluation largely in terms of the differences in objectives just identified.[26] Job evaluation does not produce equity in some objective, scientific way; job evaluation helps achieve whatever criterion of equity its administrators desire.

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[19] Schwab, 1983

[20] E.g., Grune, 1982; Smith, 1978, Treiman and Hartmann, 1981.

[21] Arvey, Passino, and Lounsbury, 1977; Grams and Schwab, 1983; Schwab and Grams, 1984.

[22] E.g., Atchison and French, 1967; Chesler, 1948a; Robinson, Wahlstrom, and Mecham, 1974; Snelgar, 1983.

[23] E.g., Chesler, 1948a, 1948b; Doverspike, Carlisi, Barrett, and Alexander, 1983; Lawshe and Farbo, 1949; Lawshe and Wilson, 1947.

[24] E.g., Madden, 1962, 1963.

[25] E.g., Grams and Schwab, 1983; Schwab and Grams, 1984.

Summary and Recommendations

The central issue in the comparable worth controversy has to do with values. It transcends the use of any specific job evaluation system. Indeed, it transcends whether or not job evaluation is even used by firms. The central issue is one of values. *Should* pay differentials be determined primarily in the external marketplace, or should they be determined by using internal criteria in a way that is designed to reduce the gender-related pay differential? Given that this differential exists in the present system of market-dominated wage determination, the two cannot coexist without conflict.

There would be difficulties in achieving the objectives of comparable worth advocates through job evaluation, even though we have seen that job evaluation can be used to accomplish such objectives. One difficulty is the fact that most firms in the private sector probably do not use job evaluation. Frankly, the evidence here is very sketchy. Surveys of compensation practice[27] tend not to be representative and tend to overrepresent large firms (where job evaluation use is greater). But it is highly probable that the majority of firms do not use job evaluation, although it may be that a majority of private sector employees are covered by a job evaluation plan.

Thus, to achieve the objectives of comparable worth advocates through job evaluation would require legislation mandating a practice that is not now common. Moreover, that legislation would have to be very comprehensive. Because of the subjectivity of the process, the legislation would have to provide answers for all of the judgmental decisions discussed earlier, and perhaps even that would not be sufficient. Macroeconomic implications aside (undoubtedly discussed in other papers in this series), achievement of comparable worth objectives through job evaluation would require substantial regulatory involvement in pay-setting practices of firms. This involvement would necessarily be continuing, since as we have seen, changes in external conditions require internal changes in pay-setting practices.

Organizational pay-setting practices are satisfactory as long as the results they produce are satisfactory to the parties to the process. There is wide agreement on this point. The question is, can such practices produce results that are satisfactory to both critics and advocates of comparable worth? Using job evaluation as proposed by many advocates (i.e., freeing it from external market forces) is unsatisfactory to management. From management's perspective, any satisfactory solution must link the internal wage structure of the firm to the external labor market. Yet, it is precisely the external labor market, and the discrimination that is alleged to exist in it, that is most disturbing to advocates of comparable worth.

Perhaps there is a way to proceed that could satisfy the interests of both parties, although it does not necessarily involve job evaluation. If the external market is to continue to serve as the criterion for establishing pay differentials, it is important that the discrimination issue be addressed. This investigation should proceed along two lines.

First, we need better evidence regarding the magnitude of discrimination, if any, and especially on just where that discrimination is taking place. Serious evaluations of the evidence by advocates[28] recognize that the econometric studies reaching the conclusion that gender-based discrimination exists in the market contain flaws. They, nevertheless, argue that because there have been so many studies, and that nearly all studies obtain similar results, the weight of the evidence supports a finding of discrimination. The problem with this argument is that not only have the studies obtained similar findings, they have also used similar methodologies (and even sometimes the same samples). Thus, if one study reaches erroneous conclusions because of methodological difficulties, all studies will reach erroneous conclusions. The volume of research is not at issue; the quality of the research is at issue.

Furthermore, the studies with few exceptions have been conducted on *individual* salaries. Job evaluation and other procedures for establishing pay rates, however, are applicable to wage rates or average wage rates for *jobs*. Thus, even if the extant research has reached valid conclusions, the implications of those findings for job evaluation are in doubt. Put differently, even if job evaluation was implemented exactly to the advocates' liking, it does not follow that econometric studies on individual wages would not continue to reach the conclusion that discrimination exists.

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[26] E.g., Remich, 1984.

[27] E.g., reviewed in Belcher, 1974; Treiman, 1979.

[28] E.g., Treiman and Hartmann, 1981.

The second line of research becomes applicable when and if more appropriate and compelling data are generated providing evidence of discrimination. In that case, existing job evaluation and other pay-setting techniques should be modified to ensure that the discrimination of the marketplace is not transferred into the organization. Treiman and Hartmann (1981) have suggested that wages might continue to serve as the criterion if job evaluation results were corrected for that discrimination. This is certainly an appropriate objective. The problem with their specific methodological recommendations is that they suffer the same limitations as the methodologies used in the studies that have concluded discrimination currently exists in the marketplace. For example, given a reasonable set of assumptions about job evaluation practices and wage distributions in organizations, Treiman and Hartmann's proposed correction procedures would lead to the conclusion that discrimination against predominantly female jobs is occurring when it is not.[29]

An ultimately more fruitful approach for ridding the wage criterion of discrimination may come about by focusing on salary survey sampling. There are a great many judgmental decisions that are made in choosing key jobs (i.e., market jobs) and in choosing firms to be included in salary surveys. Unless one concludes that discrimination occurs in all jobs and all organizations, it is at least theoretically possible to construct unbiased wage criterion distributions through sampling and thus avoid the methodological problems associated with the remedies so far proposed.

Removal of biased wages through sampling would serve another important purpose. Specifically, as noted, many employees are not covered by, and many firms do not currently use, job evaluation. On the other hand, the use of wage surveys, at least informal ones, to make salary decisions is widespread. Consequently, improvements in survey sampling procedures could have a much broader impact with less adverse regulatory impact.

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[29] Schwab and Wichern, 1983.

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Comparable Worth and Realistic Wage Setting

By Herbert R. Northrup*

Introduction

Comparable worth, as a means of equalizing the incomes of women and men, is a slogan that has captured the imaginations of many people. In fact, comparable worth is an ill-defined concept that means many things to many people. To some, its assumptions are untenable. To others, its promises are unachievable. Above all, its implementation would fundamentally alter our employee relations system by requiring a huge bureaucracy to administer it and by turning wage setting over to equal employment commission administrators and judges—surely among the most unqualified to handle such problems.

In this article a definition of comparable worth is given (which, of course, could be unacceptable to others); the role of job evaluation or, in most cases, a wage classification system in setting wages and salaries will be discussed; the question of whether job evaluation or a wage classification system can prove discrimination will be examined; and the potential impact of a comparable worth doctrine both on the general wage and salary structure and current wage and salary administration will be analyzed. In so doing, I shall make use of an earlier paper on this subject.[1]

Comparable Worth Defined

Like all good politicians, comparable worth advocates are long on generalities and short on specifics. It is much simpler to believe that the adoption of a comparable worth scheme will end discrimination than to deal with the details and mechanisms of the system that have fostered and perpetuated discrimination. Particularly, definitions of comparable worth are often lacking or vague. In many instances, comparable worth is confused or used interchangeably with the well-accepted and legally mandated doctrine of equal pay for equal work. The equal pay doctrine pertains to equal pay for the same or closely related jobs. Comparable worth, as defined here, relates jobs that are dissimilar in their contents—for example, the office worker and craftsman—and purports to demonstrate that if such jobs are of equal value to the employer or society, the persons employed in them should be equally compensated.

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* Professor of Industry and Director, Industrial Research Unit, The Wharton School, University of Pennsylvania.

[1] Herbert R. Northrup, "Wage Setting and Collective Bargaining," in E. Robert Livernash, ed., *Comparable Worth: Issues and Alternatives* (Washington, D.C.: Equal Employment Advisory Council, 1980), pp. 107–36.

This definition of comparable worth, which encompasses the term as used in the literature by both its proponents and opponents, immediately raises a number of very practical questions that must be answered before any legislature, court, or administrative agency pushes a sector of the economy into a comparable worth system. Some practical questions relating to the comparable worth issue are:

- Does a job have an intrinsic worth to society or to an employer apart from the price that can be obtained for it in the labor market?
- If so, how can such worth be measured and this measure be used in comparing the worth of different jobs?
- If such comparisons are made, who will make them: employers, courts, or administrative agencies?
- What would be the standards for making such comparisons, and who will decide what those standards are?
- What are the potential economic and social consequences of requiring comparable worth?
- Are there alternative approaches that would be more effective in narrowing the pay gap?

To understand these questions and to pass effective judgment on the comparable worth issue, it is important that the wage and salary-setting process first be understood.

The Development of Wage and Salary Administration

Wage and salary administration is not done in isolation from other aspects of personnel administration. Companies must not only determine how to compensate personnel, but equally important, how to devise on-the-job training programs. If persons are to be trained to learn new skills in order to accept more job responsibilities, their compensation must reflect their greater levels of responsibility as they move up the occupational ladder. Initially, however, there were few formal job evaluation systems, but rather there was a slotting of jobs based upon the natural job progression—that is, the increasing complexity of jobs from the lowest skilled, requiring the least knowledge, to the highest skilled, commanding the greatest knowledge. The knowledge required to perform the most complex jobs in this hierarchy was garnered from years of work experience in a department or an organization. Wage differentials were established which recognized that, as one progressed up the job hierarchy, one's compensation should reflect that progress.

In these early situations, wage structures were frequently set in one plant operation without regard to another. The advent of unions and the experience of compulsory arbitration under the National War Labor Board (WLB) during World War II tremendously changed this. Unions required that where skills were similar, there should be similar or equal pay. At the same time, the WLB was overwhelmed by the tasks of determining wage levels, effectuating wage controls, and settling new collective bargaining contracts, as well as by the complication of numerous disputes alleging individual wage inequities. As a WLB hearing officer, I vividly remember numerous cases involving 50 or more issues, all of which concerned wage rate differentials or the relationship of wages for one job to those of others. Such cases were by no means atypical. Understandably, the WLB turned to job evaluation and related wage classification programs as a necessary tool both to control intraplant wage rates and to settle disputes over alleged intraplant inequities. It was then that job evaluation and other wage classification systems began their tremendous growth and expansion.

Management Initiatives and Union Acceptance

The development of industrial unions and the directives of the WLB made management realize that job evaluation or wage classification systems were essential not only to sound employee relations, but also to effective cost control. According to an outstanding book on the subject:

> Just as all personnel activities were directly and indirectly stimulated by the expanding union movement, job evaluation was used by management partly to deter or prevent unionization, partly to rationalize its wage scales prior to unionization and establish principles and practices for future wage administration, and partly to stabilize the wage structure and eliminate continuous bargaining over particular rates after unionization.[3]

Management also discovered early on that no wage classification system could serve its purpose unless employees and the union bargaining agent were convinced of its equity and fairness and unless the reasonableness of its administration was demonstrated.

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[3] Summer H. Slichter, *The Impact of Collective Bargaining on Management* (Washington, D.C.: The Brookings Institution, 1960), p. 561.

Unions, too, found that job evaluation and wage classification programs were necessary solutions to their own problems concerning wage instabiity. Before such programs evolved, disorganized wage structures had caused serious dissension among their members and made bargaining extremely difficult and strikes more likely.

> In short, the bargaining process breaks down without stable wage relationships. Negotiators for new contracts find themselves unable to deal adequately with the major issues because their time and energies are consumed by attempting to settle a myriad of almost individual disputes concerning whether employees are compensated fairly in relation to their peers and whether certain jobs are properly classified in relation to others. Moreover, the settlement of one issue is as likely to trigger additional disputes as it is to bring peace. Job relationship disputes involve not only compensation but social and peer prestige as well. If the multiple spindle grinder operator was being paid the same wage rate as the shaper operator, and then the latter's rate is raised, the former is likely to become quite upset. He is now lower rated in money and, from his perspective, perhaps in social standing as well. Without criteria upon which to rely, the union is forced to process a huge volume of grievances, and the company is faced both with potential labor disputes, or a constantly rising wage bill, or both. The results can be chaos, declining market share, lost jobs, or even business failure. The larger the facility, of course, the more difficult and expensive are the problems that arise.
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> Clearly, it follows that strike incidence is certain to be higher if there is no coherent mutually acceptable system. With individual wage disputes clogging the calendar, it can become politically impossible for union officials to agree to general settlement terms until such individual disputes are also resolved. From management's perspective, solution of such disputes without the criteria provided by a job evaluation system can result only in higher labor costs, still more disputes, and a continued upward spiral of the same. Consequently, management, literally to maintain the viability of the company, must stop giving. Unless the parties can agree to a reasoned system of job classification, the strikes that result can be long and bitter and the basic problem left unresolved.[3]

During the life of a union contract, wage classification systems are equally important for both parties. Disputes continually arise, often as technology and work methods change, regarding the correct classification pay for jobs. The wage classification system provides the criteria to prevent the upward whipsawing of wages during the life of a collective agreement. Otherwise, a firm's wages could slide upward and endanger its competitive position. Moreover, lacking criteria to judge job classification would, as in WLB days, no doubt clog the grievance machinery or cause it to break down while basic problems would remain unsolved. This would, of course, lessen the prospect of industrial peace. It would also result in much expensive litigation and an unhealthy resort to arbitration, making the arbitrator the final determiner of the rates paid and the position of jobs in the total structure.

> This last shortcoming is, perhaps, the most serious aspect of excessive arbitral decision making, because it turns the decision making function over to a third party, who, however expert and judicious, is not required to live with the results. There is, moreover, no reason to expect an arbitrator, whose knowledge of production needs is certain to be less than that of the parties, to accomplish what they have failed to do. Hence, excessive resort to arbitration not only creates serious inherent problems for the parties but in addition may yield quite unsatisfactory results, because the root cause is not addressed—the lack of a coherent, acceptable, job evaluation or similar system.[4]

As a result of their needs, management and unions, by the mid-1950s, had come to accept job evaluation and wage classification plans as necessary tools to handle their respective affairs and to keep their relationships viable.

> Although job evaluation as such is no longer a controversial matter between unions and management, this does not mean that grievances do not arise concerning evaluated jobs. Quite the contrary is true. Disputes over the slotting of particular jobs usually vie with questions of seniority and rights to overtime as the items that comprise the largest share of the grievance load. This is what one would expect as changing product, technology, and methods alter job content. What job evaluation does. . .is to provide criteria for the settlement of these disputes and, by its existence and acceptance, preclude many other disputes from arising. This is its great contribution in collective bargaining.[5]

Job evaluation and wage classification systems make an equal contribution to employee relations and sound personnel administration in nonunion companies. Employees cannot remain satisfied and cooperative if they believe that they are being unfairly compensated in relation to fellow employees. Nothing is more destructive to good employee relations or can be so detrimental to employee morale as a chaotic internal wage structure and the pay relationships therein. Unless those initially involved believe in the equity of the wage and salary classification system and the fairness of its administration, relationships and productivity are certain to suffer.

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[3] Northrup, "Wage Setting and Collective Bargaining," pp. 122–23.

[4] Ibid., p. 124.

[5] Ibid., p. 126.

Job Evaluation and Discrimination

Job evaluation has been criticized both as a source of discrimination and as a method of determining whether discrimination exists. I suggest that its significance in both instances has been exaggerated.

First, it should be emphasized that job evaluation's purpose is to "array jobs for the purposes of establishing wage differentials among jobs. It addresses the question of wage variability and hence the question of wage equity."[6] Job evaluation plans cover only a minority of employees, and most systems are informal. Even where job evaluation is used, it does not account for all pay differentials. Therefore, as Professor Schwab has succinctly noted, unless the law were to mandate the use of job evaluation, "modifications in job evaluation will not ensure that individual wage differentials conform to some criterion such as comparable worth."[7]

Job evaluation involves the rating of jobs in relation to others within a plant. In its literal sense, it necessitates that key jobs be examined as to the degrees of skill, education, and decisionmaking required to perform those jobs. The amount of hardship or danger involved and other criteria may also be considered. Using an accepted formula, the jobs are then scored and rated. Many companies informally rate jobs by slotting them—arranging key ones in order of skill, for example, and categorizing the rest accordingly. Such methods are often termed classification systems. Whether a formal or informal method is used, a good deal of subjectivity is involved in the process. The manner in which jobs are classified, however, depends, within various limits, upon the opinions of those who do the rating. It is in the best interest of all to classify jobs as objectively as possible because the wage and the upgrading structures must be synchronized—wage rewards must be available to provide the incentive for training and the consequent assumption of greater responsibility if the system is to work and productivity is to improve.

Job evaluation and wage classification schemes rationalize the internal wage relationships; they are not the means by which wages are set. Instead, wage rates or brackets must be assigned to the various classifications. The rates are determined by the employer, or through collective bargaining, with the market as the guiding force. What the classification scheme does is to provide that the lowest rated and highest rated jobs receive the lowest and highest wages, respectively.

The market also plays a role in the classification scheme. Once low-rated secretaries are now classified at much higher levels—as executive secretaries, or administrative or executive assistants—for a very simple reason. Market realities have forced a reexamination of their role and an appreciation of their skills. Likewise, their salaries have risen because of their short supply.

Like any other tool, job evaluation can be, and has been, misapplied. This explains why some evaluated wage structures become chaotic and others fail to perform the function for which they were created.

Like any other instrument, a job evaluation or wage classification system can be perverted and therefore biased. Thus, in classifying jobs held by a large number of women or minorities, it is possible that unfair or discriminatory standards were applied. Since the enactment of the Civil Rights Act of 1964, many major companies have either reevaluated their wage classification plans or had them audited by consulting firms specializing in this field in order to determine whether discrimination can be inferred as a factor in the evaluation or slotting of jobs. Some have made changes as a result. But job evaluation and wage classification plans do not prove or disprove the existence of discrimination.

Actually, discrimination in most instances is probably not the result of wage classification, but rather of inequitable treatment in employment, promotion, and related activities. The concentration of blacks working at blast furnaces in the steel industry, in woodyards in the paper industry, and in lower echelon jobs in general[8] could not have been corrected by attacking job evaluation or related problems. What was needed was a correction of the practices that established, encouraged, and institutionalized the discrimination. Similarly, if a job evaluation or wage classification system is administered in such a manner that it discriminates against women, the solution is not an alteration of sound and tested evaluation techniques, but rather the modification of any practices that discriminate in the administration of particular job evaluation or wage classification programs.

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[6] Donald P. Schwab, "The Limitations of Job Evaluation Systems," in *Equal Pay for Unequal Work* (Washington, D.C.: Eagle Forum Education & Legal Defense Fund, 1984), p. 185.

[7] Ibid., p. 186.

[8] For background on these practices, see Herbert R. Northrup, *Negro Employment in Basic Industry*, Studies of Negro Employment, vol. 1 (Philadelphia: Industrial Research Unit, The Wharton School, University of Pennsylvania, 1970); and Herbert R. Northrup and Richard R. Rowan, *Negro Employment in Southern*

It is also important to emphasize that it is not possible to devise a system that would totally eliminate subjectivity in job evaluation programs, as no one can prove that one job is "worth" more than another. Just as there is no such thing as a fair wage, but only opinions about what is fair, so there are only opinions about job worth. In the final analysis, the market provides the test. Job ratings, like wage rates, that do not meet this test run into trouble. If they are too low, people tend to look for employment elsewhere or to become dissatisfied if they remain on the job; if the jobs are rated too highly, the economic consequences damage the business. These results will not be altered by changing our system to the vague alternative offered by comparable worth advocates.

Employment Parity and Comparable Worth

The present emphasis on comparable worth by the professional advocates and political supporters of women's rights is, as I have previously mentioned, an attempt to achieve employment parity through indirect means, after direct means—that is, quota employment—failed to receive sufficient legislative and judicial support. The theory of their case is based upon the assumption that likens the employment process to one of random selection. Their model implies that absent discrimination, the breakdown of a company's labor force should resemble that of the population. In other words, the proportion by race and sex of craftsmen, managers, professionals, and technical workers in plants should approximate the proportion of these occupational groups by race and sex in the labor market.[9]

Such a theory is totally unrealistic. For example, many ethnic and racial groups have different educational backgrounds and aspirations. Also, many women still opt for clerical careers in spite of other opportunities.

> Moreover, the labor pool of a plant is also constantly changing. For example, there has been a sharp jump in labor force participation of females in recent years. Increased hiring or layoffs at other plants in an area would also quickly change the labor pool, as would decisions of high school students to seek work or to attend college, or of older persons to retire or to keep working. Random selection assumes a stationary pool of prospective workers, not one that is constantly undergoing change.
>
> Finally, employers attempt to select employees with much more care than a random casting. Experience and selection tools are utilized to attempt to obtain workers who will be the most productive. In addition, legal constraints involving race, color, creed, sex, the handicapped, older workers, and veterans all play a role. Thus, both legitimate employment and legislative goals cast serious doubt on the applicability of a random selection process in employee selection.[10]
>
> Random selection clearly is something quite different from nondiscriminatory employment. The latter assumes that the best qualified person will be chosen and that no form of discrimination will cloud the selection process. This does not necessarily lead, however, to parity employment—that is, employment of various race, sex, and other protected groups in proportion to their representation in the labor market. The AT&T experience, summarized below, is illustrative of the difficulties of achieving parity employment even when such a concept is supported by stringent quotas.[11]

The AT&T experience was the subject of a detailed study by myself and a colleague. AT&T agreed to a thinly disguised quota that did increase the proportion of minorities and women in the company and upgraded many to managerial status. Conversely, many white males became operators and clericals, and this reduced opportunities for less-educated females.

Industry, Studies of Negro Employment, vol. 4 (Philadelphia: Industrial Research Unit, The Wharton School, University of Pennsylvania, 1971).

[9] The theory of random selection has been most clearly enunciated and supported by Professor Barbara Bergmann. *See, e.g.*, Barbara R. Bergmann and Jill Gordon King, "Diagnosing Discrimination," in Phyllis Wallace, ed., *Equal Opportunity and the AT&T Case* (Cambridge, Mass.: MIT Press, 1976), pp. 49–110; and Barbara R. Bergmann and William Krause, "Evaluating and Forecasting Progress in Racial Integration of Employment," *Industrial and Labor Relations Review*, vol. 25 (April 1972), pp. 399–409.

[10] This discussion is taken from Herbert R. Northrup and John A. Larson, *The Impact of the AT&T-EEO Consent Decree*, Labor Relations and Public Policy Series, no. 20 (Philadelphia: Industrial Research Unit, The Wharton School, University of Pennsylvania, 1979), chap. VII.

[11] Northrup, "Wage Setting and Collective Bargaining," p. 130.

The decree also resulted in a substantial increase in the number of jobs held by females in inside crafts and outside crafts. Unfortunately, in the latter category, the increase was at the expense of a huge turnover and female accident rate which was almost three times that of males, despite enormous expenses by AT&T on redesigned safety and training measures in order to meet these unscientifically and artificially contrived quotas.

The AT&T consent decree pushed America's largest company toward parity employment, but it did not achieve it. White females were the principal gainers, especially those who were well educated. Most women continue, however, to prefer clerical to craft work, both at AT&T and throughout the economy and, despite quotas for male clericals at AT&T, continue to be the primary source for that classification at the company and elsewhere. Likewise, men are predominant in the crafts, and craftsmen continue to receive higher remuneration than secretaries. It is clear that parity at AT&T was not achieved by the quota system.[12]

Employment parity being impossible to achieve, the goal is now wage parity. With regard to wage parity, the comparable worth doctrine ignores one key point: that what is "fair" is a matter of opinion. It promotes a system of job classification that is not related to the internal labor market of a firm and a wage system that is not related to the demand and supply of labor.

It is also clear that the comparable worth theory would greatly raise the wage level. Jobs reevaluated down, if any, by the comparable worth criteria would at most be red circled, with the attendant problems of dissatisfaction over different pay for different work. Jobs reevaluated up would be raised. This would not only cause an increase in costs in itself, but would surely trigger demands from related groups who did not receive increases for upward adjustments or from union officials ready to whipsaw the wage system upward. In turn, this would mean not only additional costs but considerably more labor strife as managements and unions attempt to settle difficult problems without the benefits of agreed-upon job criteria or a jointly settled plan.

Perhaps the most pernicious aspect of the comparable worth theory is that it would establish a government agency as the final arbiter of wages. The National War Labor Board of World War II found itself overburdened by individual wage disputes and gave job evaluation enormous impetus as a means of returning the task to the parties, who the Board's public, industry, and labor members believed were best qualified to handle it. The wisdom of the WLB's policies has become apparent because job evaluation, as such, is no longer a contentious union-management issue. Moreover, experience has demonstrated that settlement by the parties of such issues is far better in terms of lasting results than determination by third parties. This is true even if the arbitrator is the clear choice of the parties because only the parties must live with and make work the determination that results.[13]

The task of wage determination, as I have already noted, would go to civil rights agency officials and judges, neither of whom has demonstrated any expertise in this matter. This would be favorable for lawyers, but unhealthy for the country. The net effect would be to alter the industrial relations system, to increase labor strife, to raise labor costs, and to worsen America's already difficult position in international competition. All this would occur without achieving the employment and wage parity for which comparable worth advocates are scheming.

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[12] Ibid., p. 131.

[13] Ibid., p. 133.

Identifying Wage Discrimination and Implementing Pay Equity Adjustments

Notes from the Experience of the New York State Comparable Pay Study

By Ronnie J. Steinberg*

The policy goal of equal pay for work of comparable worth has evolved to rectify the wage discrimination that is a byproduct of occupational segregation. The link between segregation and the wage gap is now undeniable. The National Research Council of the National Academy of Sciences (henceforth NAS committee) succinctly describes the pattern: "Not only do women do different work than men, but the work women do is paid less and the more an occupation is dominated by women the less it pays."[1] The NAS committee concludes from this that "Women are systematically underpaid. . .on the basis of the review of the evidence, our judgment is that there is substantial discrimination in pay."[2]

Viewed from a *policy* perspective, comparable worth broadens the earlier policy of equal pay for equal work that prohibited wage discrimination if women and men were doing the same or essentially similar work. It requires, instead, that dissimilar jobs of equivalent worth *to the employer* should be paid the same wages. *Conceptually,* the policy goal of equal pay for work of comparable worth concerns the issue of whether work done primarily by women and minorities is systematically undervalued because the work has been and continues to be done primarily by women and minorities. Systematic undervaluation means that the wages paid to women and men engaged in historically female or minority work are artificially depressed relative to what those wages would be if these jobs had been and were being performed by white males. *Operationally,* pay equity involves correcting the practice of paying women and minorities less than white men for work that requires equivalent skills, responsibilities, stresses, personal contacts, and working conditions.

The demand for comparable worth first surfaced during World War II in a 1945 case brought to the War Labor Board by the Electrical Workers' Union against General Electric and Westinghouse. In this case and a similar one in 1946, the Board decided in favor of the union's position, but the companies ignored the decision.[3] A second round of comparable worth activities began in the early 1970s, and the policy began to take off in 1977 when Eleanor Holmes Norton, Chair of the Equal Employment Opportunity Commission under President Carter, identified it as a high priority of her administration.

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* Director, Program on Comparable Worth, Center for Women in Government, Rockefeller College of Public Affairs and Policy, State University of New York at Albany.

Sharon Stimson, Lois Haignere, and Alex Reese provided invaluable assistance in the completion of this paper.

[1] Treiman and Hartmann, 1981: 28.

[2] Ibid., 66–67.

[3] Milkman, 1981.

By 1980 comparable worth was a visible policy goal supported by women's rights organizations, commissions on the status of women, and trade unions. In 1981 the policy goal was further institutionalized in the courts, the collective bargaining arena, and in the halls of mainstream science through *County of Washington v. Gunther* and *I.U.E. v. Westinghouse,* AFSCME Local 101 contract language negotiated in San Jose, California, and the release of the NAS committee final report, *Women, Work and Wages: Equal Pay for Jobs of Equal Value,* respectively. Since 1981 comparable worth activity has proliferated, with current activity counts estimating more than 125 initiatives in over 40 States and 52 municipalities.[4]

At the same time, or perhaps because of the rapid pace of its evolution, comparable worth has engendered considerable opposition, especially among business groups. Yet, over the last 5 years, the terms of debate between advocates and opponents have shifted. Whereas formerly the dialogue focused on whether or not there would be a comparable worth policy, differences now hinge on the technical underpinnings of policy implementation. These include the nature, scope, and extent of wage discrimination; the standards of worth to be used as a guide to estimating undervaluation; and the strategies and procedures for achieving pay equity adjustments in a fair and fiscally responsible fashion. This paper explores these technical considerations in light of my experience as project director of the New York State comparable pay study.[5]

Background and Overview: Cultural Processes and Institutional Mechanisms

Comparable worth policy is directed at closing that portion of the wage gap between women and men due to systematic undervaluation. Not all of the wage gap is a function of this undervaluation, however. Occupational segregation could translate into wage differences between women and men for two reasons: first, women may be segregated into jobs that require less skill, effort, and responsibility than jobs filled by men. Industrial psychologists and labor economists have come to refer to these job content features as productivity-related, job content characteristics.[6] For this reason, wage differences are legitimately derived from differences in job prerequisites, requirements, and responsibilities. One study completed by NRC/NAS staff did find that some small percentage of the difference in earnings could be accounted for by job content differences such as degree of complexity and supervisory duties.[7] The policy already embodied in Title VII exists to eliminate this source of the wage gap. Through incentives and sanctions, the policy goal is to increase the mobility of women and minorities into higher paying, white male jobs.

Second, women may be segregated into lower paying jobs that require the equivalent amount of skill, effort, and responsibility as male jobs. The NRC/NAS study referred to above also found that the percentage of female incumbents in a job title was an important determinant of earnings. Some firm-level, comparable worth studies have also reported this finding. These include Washington State, Minnesota, Illinois, Michigan, Iowa, Connecticut, and San Jose, California. The State of Washington study, one of the first comparable worth projects to be completed, found that the job of a licensed practical nurse (a historically female job) required an amount of skill, effort, and responsibility equivalent to the job of campus police officer (a historically male job).[8] In 1978 the State of Washington paid a licensed practical nurse $739 a month, on average. The campus police officer was paid $1,070 a month, on average. These salary differences could not be justified in terms of productivity-related, job content characteristics. The issue of comparable worth is concerned with this type of wage discrimination. These are the differences that result from the systematic undervaluation of work performed predominantly by women. Comparable worth studies examine this potential wage discrimination in jobs such as garment worker, launderer, food service worker, institutional caretaker, retail salesworker, and entry-level clerk typist. Such studies seek to differentiate legitimate wage differences from those that are solely a function of the sex of the typical job incumbent. Minority women are disproportionately represented in these jobs as well.

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[4] Cook, 1984a.
Initiatives include some form of information gathering such as public hearings or a statistical overview of the position of women in public sector employment in the jurisdiction, a comparable worth study, legislation or an executive order either requiring a study or requiring the implementation of study results, collective bargaining for a study or for implementation of study results, litigation, and administrative reform through pay equity adjustments. Obviously, these are not exclusive categories (see Cook, 1982, and Dean et al., 1983).

[5] The New York State comparable pay study is being conducted by the Center for Women in Government under a contract with New York State. The center's comparable pay team includes: Lois Haignere, Ph.D, assistant director for this project; Nancy Perlman, executive director of the center; Cynthia Chertos, Ph.D., director of research and implementation at the center; Carol Possin, Ph.D., research staff; Sharon Stimson, research staff; Donald Treiman, Ph.D., professor of sociology at UCLA; and Richard Maisel, Ph.D., director of graduate studies, Department of Sociology, New York University.

[6] Milkovich, 1981.

[7] Roos, 1981.

[8] Remick, 1980.

Moreover, comparable worth is now being extended to encompass jobs disproportionately held by minority males even though, until recently, the question of the fairness of wages under this policy was defined almost exclusively as a women's issue. In the New York State comparable pay study, for example, estimates of undervaluation will be made for such job titles as youth division aide, window washer, elevator operator, janitor, cook, barber, and busdriver. This is because processes perpetuating undervaluation are the same whether the source of differential treatment is sex or race or ethnicity.[9]

What, then, are these processes and how are they perpetuated in institutional mechanisms such as personnel systems that govern employment in large work organizations like New York State government?

Job Content Analysis and Job Evaluation: Job Classification Systems

The cultural assumptions perpetuating both occupational segregation and wage discrimination are institutionalized through personnel policies and procedures.[10] In the area of compensation, these involve classification systems, a majority of which are built out of some variant of job content analysis and job evaluation. One study has estimated that approximately two-thirds of all firms and work organizations in the public and private sectors organize their compensation policies in terms of some variant of job content analysis and job evaluation.[11] In this section, we will first provide an overview of these techniques, after which we will discuss two ways in which cultural assumptions contribute to the artificial depression of wages paid to those engaged in historically female and minority work.

Schwab[12] defines job evaluation as:

> a measurement procedure designed to aid organizations in establishing pay differentials between jobs. . .job evaluation generates pay differentials by identifying the differential worth of jobs. Jobs worth more are paid more. Worth, in turn, is assumed to be established by the degree to which jobs possess levels or degrees of *compensable factors*. The latter, judgmentally derived, presumably represent dimensions of the job that the organization wishes to base pay levels upon.

Similarly, Beatty and Beatty[13] indicate that:

> One purpose of job evaluation is to develop an internal hierarchy of job worth (i.e., job structure) which denotes the value of the job, as seen by the firm, relative to other jobs within that firm. The job is to be evaluated, not employed in that position. . .most job evaluation methodologies focus upon job content to compare a job's worth, which is then compared with external labor market prices to assess correspondence between the internal valuing of jobs and the labor market value.

Therefore, the basis of this judgmentally derived worth, as Schwab puts it, is a meshing of the job hierarchy internal to an organization with the external labor market price (or wage) for a job.

Operationally, the general purpose of *job content analysis* is to gather thorough and accurate descriptions of the range of tasks, behaviors, and functions associated with a job.[14] Job characteristics may be broadly comprised of dimensions such as skill, effort, responsibility, and working conditions. Alternatively, they may be defined more specifically to include items such as job-related experience, formal training time required, frequency of review of work, total number of personnel for which an employee is responsible, impact on and responsibility for budget, physical stress, time spent working under deadlines, time spent in processing information, and so on. Information typically is gathered through some combination of questionnaires (completed by job incumbents, supervisors, job analysts, or some combination of these) and job analyst observation of a group of employees performing their jobs.

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[9] Steinberg and Haignere, 1984a. Sections of this paper draw heavily from the material in this earlier paper.

[10] Indeed, perhaps the most significant consequence of the first decade of the enforcement of Title VII of the 1964 Civil Rights Act and Executive Orders 11246 and 11375 was a redefinition of what constitutes discrimination. Pivotal was the 1971 *Griggs v. Duke Power Company* decision (401 U.S. 424, 3 EPD 8137) in which Supreme Court language shifts from isolated, individual actions to the impact of systems on individuals. With the 1972 amendments to Title VII, the focus of discrimination was no longer employer behavior, but was placed instead upon firm procedures and policies concerning hiring, initial assignment, and promotion (Feagin and Feagin, 1978; Alvarez, 1979).

[11] Cited in Treiman and Hartmann, 1981.

[12] 1980: 52.

[13] 1984: 60.

[14] Beatty and Beatty, 1984.

Accurate job descriptions are not only a function of asking the "right" questions about job content on a well-designed questionnaire, however. Equally important are: (1) selecting a sample of job titles representative of the range of work performed in the work organization; (2) selecting a large enough sample of incumbents within a job title to ensure that the information collected is representative of the range and variety of the work actually performed in the job; and (3) carrying out some procedure for averaging across specific positions within a job title.

The purpose of *job evaluation* is to delineate standards of worth in terms of a set of job content criteria applied consistently to all job titles in a work organization. Typically, jobs are assigned points in terms of the weighting of these factors. These weights are derived either from classical job evaluation systems[15] or through a statistical analysis that is reviewed and can be modified by the parties to the labor contract. Most important for the discussion here is the understanding that, based on the point value, wages are assigned to a job and jobs are allocated over a wage structure.

Furthermore, there are two major approaches to job evaluation: an *a priori* approach, using a predetermined system of factors and factor weights to evaluate jobs within a specific firm, and a *policy-capturing* approach, using a statistical analysis of the individual firm as the basis for creating factors and factor weights to apply to jobs in that firm. Typical a priori systems define work content in terms of broad categories such as skill, effort, responsibility, and working conditions. Hay Associates, perhaps the foremost management consulting firm on classification issues and the best known of the a priori systems, offers four groupings: know-how, problem solving, accountability, and when appropriate, working conditions.[16] Hay Associates offers two reasons for its groupings: that the most significant elements of work are "the knowledge required to do a job, the kind of thinking needed to solve the problems commonly faced, and the responsibilities assigned"; and that "factors appear in certain kinds of patterns that seemed to be inherent in certain kinds of jobs."[17] Each factor is broken down into subcomponents and, within each subcomponent, levels are created with points assigned to each level. These are provided graphically by the consultant in so-called guide charts for use by committees of employees or by the consultant in assigning points to a job. The assignment of points is based on the description provided for that job. Descriptions are gained either through what are called desk audits by consultants (which are reviewed by a job incumbent and a supervisor for that job) or derived from responses to what is generally an employee questionnaire asking broad questions such as: "Describe the most significant tasks associated with your job."

The points for each category are tallied to obtain a total score for the job. For example, in a sample job evaluation reported in an article describing the Hay system, a supervisor of keypunch operators received a total of 268 points: 152 for know-how, 50 for problem solving, and 66 for accountability. According to McAdams (1974), the job receives 152 points in know-how because:

> 1) the job classification requires advanced vocational training (slotted in the D column); 2) the job is first-line supervision of a single-function (slotted in column I for managerial know-how; 3) the job involves proficiency in human relations, since such skills are critical in motivating people at this level.

This score becomes the basis for assigning a wage rate to the job. All other things being equal, jobs with the same number of points receive the same wages.

By contrast, typical *policy-capturing* approaches develop a compensation model that statistically captures the relationship between the current wages paid for a job in a firm and the content of a job. In this approach, specific job content features such as the number of persons supervised, type of training needed to work with machines, and extent of traveling overnight on the job become the basis for describing job content. Then, through statistical analysis, characteristics important in predicting wages and the weighting of these characteristics can be determined. These may vary from firm to firm. For example, a public sector jurisdiction may value supervision, responsibility for budgetary decisions, and writing skills. By contrast, a manufacturing firm may value supervision, cost-effective production monitoring, and manual dexterity. In other words, the presence or absence of these job dimensions in a

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[15] See Remick, 1984.

[16] McAdams, 1974; Bellak, 1982.

[17] Bellak, 1982: 1.

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specific job and the value of a job dimension to a particular firm predicts the wages assigned to that job in that firm.

Cultural Assumptions in Job Classification Systems

Job evaluation and job content analysis, therefore, are techniques for systematically and explicitly articulating the values operating in a specific labor market in terms of what people do on their jobs. Just as polls about voter preferences capture opinions about which candidate a respondent prefers and then relate that preference to other characteristics about that person like sex, average yearly income, race, and so on, job evaluation procedures capture which job content characteristics an employer values for the purpose of paying wages. Since the technique is designed precisely in terms of what is valued, it is not surprising that broader cultural assumptions about the value of activities performed by women and minorities are embedded in these systems. In a recent article surveying the research literature addressing this issue, Shepela and Viviano[18] report: "there is considerable anthropological and sociological data to indicate that the value of an activity or characteristic can be lowered simply through its association with women (or minorities)." In other words, conventional wisdom holds that what women and minorities do is less valuable than what white males do. A number of articles have examined the technical consequences of what is called the sex bias in these procedures.[19] We will treat the technical consequences of sex bias below. Here we seek to provide a more elaborate, conceptual overview of two ways in which these cultural assumptions lead to undervaluation. The experience of New York State is offered as illustrative of many systems currently in operation in large work organizations.

New York State uses what is called a position classification job evaluation system to group particular jobs into job classes or titles like secretary, cook, or carpenter. These classes are then assigned to grade levels. (Grade levels represent the salary range for job titles.) In this system, job titles are allocated to grades on the basis of descriptions or job specifications organized in terms of characteristics such as subject matter, profession or occupation represented, the difficulty and complexity of duties performed, and the nature of supervisory responsibilities. When these titles are not only different, but vary in level of difficulty or responsibility, they are assigned to different grade levels.[20]

The New York State classification and compensation system was established in 1937 and last revised in the 1950s. It has never been assessed to determine whether assumptions about jobs and the assignment of job titles to grades may be distorted by the sex or race of the typical job incumbent. Yet, like most other large employers, New York State has aligned jobs in a way that may be conducive to sex and race distortions. One way in which this happens is that jobs in different occupational groups are valued differently. Specifically, under the New York State system, new job titles or job series are first assigned to 1 of more than 85 different occupational groups, such as tax administrators and technicians, parks and forestry, general clerical, and food preparation. It is only after this assignment that jobs are arranged hierarchically within occupational groups from highest to lowest in terms of job content characteristics. This occupational group hierarchy is aligned to the overall grading system without reference to, or comparison with, other occupational groups that may have similar job content characteristics. Using Schwab's definition (quoted above), under this system judgments are based on 85 standards of worth—1 for each occupational group.

It is especially troublesome under equal employment policy when different standards of worth are applied to what are highly sex- and race-segregated occupational groups.[21] For example, it *may be* that supervision is a job content characteristic that is highly compensated in New York State. Given this occupational group classification approach, it also *may be true* that those who supervise in the clerical and food preparation occupational groups (both female dominated) are not compensated equivalently for the performance of that *supervision* compared to those who supervise in the parks and engineering groups. Because different standards of job worth are applied to each of the 85 segregated occupational groups, it is highly likely that the subsequent classification of jobs is partly a function of the sex or race of the typical job incumbent. Writing recently about the NAS committee study findings, Hartmann and Treiman noted:

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[18] 1984: 47.

[19] Treiman, 1979; Remick, 1984.

[20] The New York State system encompasses over 6,000 job titles affecting over 170,000 employees, almost 50 percent of whom are women.

[21] Eighteen of the 85 occupational groupings are more than 50 percent female: account clerk and audit clerk (0.79), statistical and actuarial (0.54), electronic data processing and comptroller systems (0.61), mail and supply and various office machine operators (0.51), stenographer and typist (0.97), general clerical (0.81), food preparation and service, baking and food production (0.62), clothing repair and cleaning (0.76), library titles (0.76), instructional education and vocational instruction (0.59), dentists, barbers, and beauticians (0.54), nursing (0.73), laboratory: X-ray and hospital technician (0.56), public health nurse (0.91), physical therapist and recreation (0.62), social work (0.55), and employment assistance (0.55).

> The third problem identified by the Committee in its interim report was the use of multiple plans by many business firms. It is often the case that one plan is used for clerical workers, another plan for managerial level workers, and yet a third plan for manual workers. When multiple plans are used, it is difficult to compare jobs across sectors of the firm. Since a major source of the wage differential between men and women stems from the fact that men tend to be concentrated in manual and managerial jobs which both tend to pay better than clerical jobs, the inability to compare jobs across sectors makes an assessment of the possibility of wage discrimination very difficult.

Yet, since employers like New York State use the same basic job content characteristics to describe jobs in these different plans for the different groups, we question whether the lack of comparison is a function of inability to compare or a simple case of cultural oversight. Until women pointed out the possibility of making such comparisons across sex-segregated occupational groups, no one *thought* to make them. Comparing women's jobs to men's jobs was a culturally irrelevant activity with obvious financial benefits to employers who could pay incumbents of these jobs less for doing equivalent work. Thus does the inconsistent application of standards of worth translate into wage discrimination.

A second way in which wage discrimination is embedded in the way jobs are classified for compensation involves the inaccurate or incomplete description of jobs. This is also pointed to in the NAS committee's final report: "it is possible that the process of describing and evaluating jobs reflects pervasive cultural stereotypes regarding the relative worth of work traditionally done by men and work traditionally done by women."[22] To examine concretely how this occurs, we draw our examples from outside of New York State.

One example is provided by a study of the third edition of the *Dictionary of Occupational Titles* (DOT) completed at the University of Wisconsin extension school.[23] The *DOT*, compiled by the U.S. Department of Labor, contains a list of almost every job title along with a rating of the job in terms of a skill-complexity code. The skill-complexity code is built on the assumption that "every job requires a worker to function at some definable level with regard to Data, People and Things."[24] These researchers were disturbed by the ratings given to certain types of predominantly female jobs compared to certain predominantly male jobs. For instance, dog pound attendant and zoo keeper were rated more highly than nursery school teacher or day care worker. The researchers carried out an independent assessment of the predominantly female jobs. Their ratings differed substantially from those of the Labor Department evaluators.

When examining why the differences emerged, they found that the Labor Department had overlooked important characteristics of the female dominated jobs, especially those associated with taking care of children. The evaluators did not regard these as job-related *skills*, but rather as *qualities intrinsic to being a woman*. In other words, the job evaluators were confusing the content and responsibilities of a paid job with stereotypic notions about the characteristics of the jobholder.

A second example is provided in the NAS committee interim report, from which I quote at length:[25]

> two factors in traditional job evaluation systems have been suggested as areas particularly subject to sex stereotyping: "experience," and "physical effort." Women's jobs are often thought of as requiring little experience mainly because the experience required to perform them is gained outside the labor market, in school or at home. But the same assumption is not usually made regarding men's jobs, even when experience is gained independently of the job. A comparison of the ratings of "truck driver" and "typist" in a job evaluation plan. . .is a striking example.
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> On the "job knowledge factor," which calls for consideration of the length of "recognized training which is specialized, previous experience judged as an essential prerequisite, and on-the-job training necessary to learn and perform the job duties with normal supervision," "typist" is scored as requiring one month of training time while "truck driver" is scored as requiring 12 months of training time. It is easy to speculate that this difference may result

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[22] Treiman and Hartmann, 1981: 81.

[23] Witt and Naherny, 1975.

[24] Ibid.: 24.

[25] Treiman, 1979: 52–53.

from cultural stereotypes since both positions involve skills usually learned prior to entry into the labor force, sometimes by quite informal means. Were typists judged to require the same training time as truck drivers it would mean an increase of two full pay grades.

A final example is drawn from an examination of over one dozen job analysis and job evaluation approaches conducted as a preliminary step in developing a customized job content questionnaire for the New York State comparable pay study. We reviewed these plans and schedules so as to include, in our questionnaire, every category of job content characteristic someone had found to be compensable. Even when we took such elaborate pains toward comprehensiveness, we found other frameworks and survey instruments either overlooked certain characteristics associated with female- and minority-dominated work or else asked questions in a way that people in institutional and facility human service settings (largely women and minorities) would have read as not applicable for them to answer. Although some of the problem here is a technically weak survey instrument, some of it is due to consultants' bias in failing to identify (and, therefore, ask questions about) skills associated with this work. For example, a survey would ask questions about recordkeeping. And yet, all references surrounding those questions would be toward office work. Individuals who worked in correctional facilities, State and municipal hospitals, youth facilities, and so on would not think that these questions probed about their own recordkeeping activities. This failure to capture these compensable job content characteristics no doubt resulted in a seemingly job content-based justification for perpetuating undervaluation of these human service jobs in institutional settings.

Similarly, other systems ignore job content characteristics that might or "should" be compensable and that are disproportionately found in women's or minorities' work. These include: *job stress* features such as from whom one receives direction, doing the same task over and over for a long time, and working around people who are sick and disabled with no hope of recovery; *working conditions* features such as cleaning up other people's dirt and garbage, and physically handling sick or injured people; *responsibility* features such as scheduling meetings or appointments, coordinating meetings, and showing new workers who make more money how to do their job; and *skill* features such as creating a filing or recordkeeping system, writing standard letters, and reading forms.

In this second set of examples, wage discrimination would be a function of the fact that the prerequisites and tasks of jobs historically filled by women and minorities have been ignored, forgotten, or overlooked. The source of this oversight is, again, primarily cultural, in that we don't think to include questions pertaining to this work in questionnaires or point-factor guide charts. Or we don't think to ask questions we include in a way meaningful to the incumbents of these jobs. The work remains invisible, undervalued, and uncompensated.

Minimizing Cultural Bias: Methodological Standards and Case Examples in Estimating Wage Discrimination

Comparable worth studies, in a sense, seek to make the invisible visible for the purpose of removing these discriminatory components in the setting of salaries. Such studies ideally must meet two objectives. First, they must determine whether the salaries of female- and minority-dominated job titles accurately reflect an explicit and consistently applied, job content-based standard of worth or if the salaries are artificially depressed because women and minorities fill these jobs. Second, they must pinpoint job titles that are undervalued and, based on this, develop estimates of potential costs of correcting for this wage discrimination. To meet these objectives, we must build on and adjust job evaluation methodologies to minimize the impact of cultural biases on the salaries paid for historically female and minority work.

Indeed, Remick[26] has concluded that:

> Job evaluation and comparable worth differ in very few ways. Most importantly politically, but least important technically, they differ in intent. The traditional use of job evaluation is to justify existing salary practice or simplify salary setting, whereas comparable worth is used to remedy sex discrimination. . . .Initially, only comparable worth applications looked for and corrected sex bias in the evaluation systems, although good traditional applications now also look for this source of bias.

Conceptually, comparable worth studies add a third dimension of *equity* to conventional classification analyses. Existing job evaluation methodologies attempt to balance *internal equity* or "the value of one job to another within a firm," and *external equity* or "the value of each job with respect to prevailing labor market practices."[27] Comparable pay studies introduce *gender equity* as a component of, but independent from, internal equity. By this we mean that a female job and a male job of equivalent value to a firm should be paid equally.

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[26] 1984: 99-100.

Moreover, Remick[28] *operationally* defines comparable worth as "the application of a single bias-free point-factor job evaluation system within a given establishment, across job families, both to rank-order jobs and to set salaries." In other words, to achieve this gender equity, one standard of worth must be applied to all jobs within a work organization and the jobs to be evaluated must be described consistently and completely. Specifically, male- and female-dominated or minority- and nonminority-dominated jobs would be compared such that female and male job titles with the same total point value, for example, received the same wages. In a Minnesota comparable worth study, registered nurse, a female-dominated job title, received 275 points. The same total point value was assigned to vocational education teacher, a male-dominated job title. The specific job content characteristics of these two jobs are quite *dissimilar.* Yet, the types of prerequisites and tasks associated with these jobs were found to be of equivalent worth to the State of Minnesota.

Since comparable worth is concerned with eliminating differences in wage rates that cannot be accounted for by productivity-related, job content characteristics, the standard of worth can be *partially* based on market wages. This is because, as the NAS committee concluded, market wages "incorporate the effects of many institutional factors, including discrimination," and it is necessary to remove this discrimination from final estimates of nondiscriminatory wage rates.[29] This standard must also be firm based. To quote the NAS committee again:[30]

> Acceptance of a comparable worth approach—the attempt to measure the worth of jobs directly on the basis of their content—does not require an absolute standard by which the value or worth of all jobs can be measured. In the judgment of the committee, no such standard exists, nor, in our society, is likely to exist. The relative worth of jobs reflects value judgments as to what features of jobs ought to be compensated, and such judgments vary from industry to industry, even from firm to firm. Paying jobs according to their worth requires only that whatever characteristics of jobs are regarded as worthy of compensation by an employer should be equally so regarded irrespective of the sex, race, or ethnicity of job incumbents.

Beatty and Beatty[31] have listed the following considerations as likely to "influence an organization's allocation of pay":

> the importance of pay to the organization and the organization's pay philosophy (e.g., training and developing versus hiring fully proficient employees), ability to pay, the financial consequences of employee withdrawal (in the form of turnover, absenteeism, and tardiness) due to dissatisfaction with pay, government regulations regarding pay systems (e.g., minimum wage and discrimination laws), the motivational uses of pay (performance and retention), the extent of unionization, industry practices, and tradition.

Completed comparable worth studies—in Washington State, Minnesota, Connecticut, and San Jose, California[32] —have introduced some changes in methodology for the purpose of gender equity. Specifically, each applied one standard of worth to all jobs examined. In San Jose, California, and in Minnesota this involved the Hay a priori, point-factor system, and in Washington State and Minnesota it involved the Willis a priori, point-factor system.[33] Each involved data collection procedures that were consistent across all jobs, although as will be discussed below, there are several technical problems with these procedures. Nonetheless, there is no doubt that awareness of the need to describe female jobs more accurately translated into fuller and better job descriptions of these jobs.[34] Each study redefined the job factors to encompass dimensions of work not previously acknowledged and disproportionately found in historically female work. In the Hay guide charts, for example, "know-how" around "person-to-person skills and work with other people" was redefined to include the ability to deal with patients and clients typical in nursing and social work. In the Willis point-factor system, working conditions were redefined to encompass and take into account noise associated with a typing pool and the eyestrain involved in operating video display terminals.

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[27] Beatty and Beatty, 1984: 59.

[28] 1984: 99

[29] Treiman and Hartmann, 1981: 65.

[30] Ibid.: 70.

[31] 1984: 66.

[32] One other major study, Michigan, and two studies on a small sample of job titles, Pennsylvania and Illinois, are not included. We exclude Michigan from consideration because it did not arrive at estimates of undervaluation on a job title by job title basis. We exclude Pennsylvania and Illinois because the assessment of undervaluation was not systemwide. Further, another frequently mentioned example is Idaho. We exclude it here because the study on which classification revisions were based was not done explicitly as a comparable worth study.

[33] Of course, the Willis system is largely derivative of the Hay guide chart point structure.

[34] The San Jose study involved training job incumbents prior to their filling out an open-ended, job content questionnaire. The Washington State and Connecticut studies involved evaluation committees in which differences among committee members in terms of sex, race, age, job title, geographic location, and agency were maximized.

Once these points were obtained based on these modified evaluation frameworks, comparisons were made between specific male and female jobs for the purpose of arriving at a wage for the female job. The difference in salary between a male-dominated and female-dominated job with the same number of points constituted the extent to which the woman's job was undervalued relative to the man's job.[35] Thus, existing comparable worth studies have used the current wage assigned to the specific white male job as the nondiscriminatory standard of worth.[36] This is analogous to one of the procedures recommended in the NAS committee's final report.[37]

The four comparable worth studies listed above consistently report that female-dominated job titles receive between 5 and 20 percent lower pay than male jobs with the same number of factor points. In the Connecticut study, completed in February 1980 (the first of three studies), Willis found that for jobs of equivalent worth, individuals in "women's" jobs earn from 81 to 92 percent of the salary of individuals in "men's" jobs. In an Idaho classification study in 1975, the implementation of a revised classification plan, formulated without an explicit concern for comparable worth, resulted in larger salary increases for predominantly female classifications relative to traditionally male classifications.

The consistent pattern of undervaluation of "women's" work in the studies done to date is illustrated in table 1. The examples included in the table are drawn from studies not mentioned above.[38] Alternatively, when one examines male and female jobs with equal salaries, the female jobs are evaluated as involving an average of 150 percent of job content worth relative to the male jobs (see table 2). Studies such as these provide indisputable evidence that the jobs which are held predominantly by women are underpaid relative to their evaluated worth.

Technical Criticisms of Job Evaluation for Comparable Worth Research

The changes in methodology that have come about in the comparable worth studies cited above are, in part, a response to a small, but growing, literature assessing the technical shortcomings of job analysis and job evaluation methodologies.[39] It should be noted that the authors of most of these articles are proponents of a comparable worth policy. They offer their methodological critiques in the hope of improving, not abandoning, job evaluation. Criticisms leveled at the technical underpinnings can be grouped into three categories. The methodological consequences of sex bias, problems of measurement in data collection, and the technical problems with market-based, pay equity adjustments. I will only briefly summarize positions on each of these and urge the Commission to review the literature cited above.

In the last section, I discussed how culturally based sex bias was embedded in existing systems of job classification. To be sure, this is the area in

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[35] One of the differences between job evaluation results where the purpose is comparable worth assessments or establishing a classification system is how the existing market wages come into play. When making comparable worth comparisons, the wage rate for white male jobs is the standard. This is one of the adjustment procedures recommended in the NAS committee's final report. However, if current wages for a firm are ignored, and instead an average market wage is calculated for all jobs (including female jobs) within a given set of points, discrimination is being embedded in the market line, which is then the standard for establishing a new wage for female- and minority-dominated titles. Somehow, this impact of femaleness must be removed. This author has seen two studies in which an unadjusted market standard was incorrectly proposed to use for estimating nondiscriminatory job worth.

[36] By definition, while the wages of white male jobs may be a function of many market and institutional forces (like union power), they are not a function of discrimination.

[37] Treiman and Hartmann, 1981: chap. 4.

[38] Steinberg, 1984; National Committee on Pay Equity, 1984.

[39] See, for example, Remick, 1978; Treiman, 1979; Schwab, 1980; Milkovich, 1980; Hildebrand, 1980; Northrup, 1980; Treiman and Hartmann, 1981; Eyde, 1982; Farnquist et al., 1983; Hartmann and Treiman, 1983; Bellak et al., 1983; Eyde, 1983; Pierson et al., 1983; Beatty and Beatty, 1984; Treiman, 1984; Remick, 1984; Treiman et al., 1984; Pierson et al., 1984; Steinberg and Haignere, 1984b. The articles listed are the more nontechnical summaries and synthetic treatments of research literatures addressing certain technical deficiencies of these approaches. Each, in turn, provides additional citations of articles published in personnel, public administration, sociology, industrial psychology, and economics professional journals.

Table 1
Inequality of Pay in Relation to Job Evaluation Points

State	Job Title	Monthly salary	Difference	No. of points
Minnesota	Registered nurse (F)	$1,723	$537	275
	Vocational ed. teacher (M)	$2,260		275
San Jose, California	Senior legal secretary (F)	$ 665	$375	226
	Senior carpenter (M)	$1,040		226
	Senior Librarian (F)	$ 898	$221	493
	Senior chemist (M)	$1,119		493
Washington State	Administrative services manager A (F)	$1,211	$500	506
	Systems analyst III (M)	$1,711		426
	Dental assistant I (F)	$ 608	$208	120
	Stockroom attendant II (M)	$ 816		120
	Food service worker (F)	$ 637	$332	93
	Truck driver (M)	$ 969		94

Table 2
Inequality of Job Evaluation Points in Relation to Pay

State	Job title	Monthly salary	Point difference	No. of points
Minnesota	Health program rep. (F)	$1,590	82	238
	Steam boiler attendant (M)	$1,611		156
	Data processing coordinator (F)	$1,423	65	199
	General repair work (M)	$1,564		134
San Jose, California	Librarian I (F)	$ 750	164	228
	Street sweeper op. (M)	$ 758		124

which consultant packages have improved the most, but it is important to review and assess proposed studies to see how sex bias is dealt with. Remick[40] identifies "four major points at which bias may enter" in job evaluation:

> 1. *Choice of factors.* Are factors found primarily in women's jobs missing from the system?. . .Many systems include most of the factors found primarily in men's jobs, but omit some of those found primarily in women's jobs. . . .
>
> 2. *Weighting of factors.* Are non-discriminatory factors present but given less than equitable weight?. . .
>
> 3. *Application.* Systems can be fair, but applications biased. Are job descriptions for all groups equally complete? Are predetermined values biasing assignment of points? If an employee committee is used, are all job groups represented, and is the committee representative of employees by race, sex, and job groups? Since women tend to use "weaker" verbs, do word choices by employees unduly influence judgments? For example, what is the difference between managing and supervising, interpreting and using, organizing and doing?
>
> 4. *Salary setting.* What exceptions are made to salary grade assignments? What is the sex and race composition of the incumbents in the exceptional jobs? How many salary scales are used? If more than one scale is used, do any scales apply to job groups that are held primarily by members of one race or sex?

Second, there are a number of measurement problems with existing job evaluation methodologies. Schwab (1980) and Beatty and Beatty (1984) point to problems of validity and reliability in measurement. By validity, we mean the ability to capture accurate information about job content. By reliability, we mean the ability to capture the same responses to particular questions about job content across different job incumbents. It is in this area of measurement that the new use of this methodology has created the need to improve its technical design. In other words, when the purpose of job evaluation was to justify a wage structure, and a consultant was hired unilaterally by management to do this, the firm was, in a sense, invoking science or systematic procedures without the need to expose the methodological underpinnings of the study recommendations. On the other hand, when the purpose is to adjust the wage structure to make it fair for subordinate power groups in the labor market, the study results must rest on a sound methodological basis.

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[40] 1984: 106–07.

Problems with existing data collection and analysis strategies include:

- faulty sample selection of incumbents;
- reliance on consultants' desk audits;
- selection of an unrepresentative sample of job titles;
- faulty development of composite job descriptions;
- poor questionnaire construction;
- poorly developed scales within factor weights; and
- highly redundant job factors.

As a result, consultants at worst stack the deck from the start to produce acceptable rather than accurate results. They create a composite job description from an unrepresentative sample of incumbents filling out questionnaires that cannot be validated. These same consultants then come in with a factor and factor weight system that they train a firm-based evaluation committee to implement on the descriptions they have written. They remain in great *control* of each step of the project. Not surprisingly, since they operate as a filter both in producing the descriptions and in the application of the evaluations, they obtain high reliability estimates between these two steps. Of course, reliability should be made on measures that are independent of one another. This statistical assumption does not appear to be upheld in these consultants' use of reliability.

And yet, as Treiman (1984) has shown, study results are highly sensitive to which jobs are studied, what information is contained within the job descriptions, what factors are emphasized and in what weighting, and how the factors have been scaled. I am not saying that one must abandon these methodologies. Rather, I am suggesting that there are better ways to conduct this research.

Finally, concern has been expressed over how to create statistically an adjusted market line to estimate the extent of discrimination embedded in salaries of female and minority job titles. Here I quote extensively from a recent article by Treiman, Hartmann, and Roos[41] in which four adjustment formulas are used to estimate predicted, nondiscriminatory salaries on national 1970 census data. They begin by indicating that:

> The purposes of this exercise are to examine the validity of the claim that men's and women's jobs are not rewarded similarly in accordance with their worth; provide estimates of the extent to which women's jobs are underpaid relative to men's; and suggest ways of adjusting salaries to achieve equity.

Having found sex discrimination in the salary data, they offer four statistical adjustment procedures:

- an uncorrected market line ("by regressing pay rates on factor scores");
- an equation based on male-dominated occupations (on the premise that "discriminatory processes presumably do not affect the relative earnings of occupations at least 90 percent male");
- an equation based on compensable factors in all jobs "holding sex composition constant"; and
- the use of the coefficient of percentage female in the immediately preceding equation "as an adjustment factor, adding to the existing mean pay rate of each occupation a constant."

The authors found the effect of each of these procedures on the predicted adjusted earnings for female jobs was "straightforward." The first model—the uncorrected market equation:

> improves the relative earnings of mixed and female-dominated occupations somewhat, but the other three procedures are much more effective in doing so, mainly because they statistically remove the discriminatory component of the relation between sex composition and earnings. On average, these latter procedures create nearly equivalent average earnings for male-dominated and mixed occupations—as they should, given the essential similarity between these two groups of occupations with respect to their characteristics. They also reduce the earnings gap between male-dominated and female-dominated occupations by about two-thirds—again as they should, giv-

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[41] 1984: 139, 149–52.

en. . .differences in average levels of the compensable factors that account for about one-third of the gap.

Again, this concern does not invalidate job evaluation for comparable worth. But it does suggest that adjustment formulas can neither be made or justified solely on technical grounds.

New York State Comparable Pay Study Design

In designing the New York State comparable pay study, we tried to build on the best aspects of previous classification approaches and introduce methodological improvements in light of these three sets of criticisms.[42] The study uses what we call an *adjusted policy-capturing* approach, involving:

1. psychometric techniques of questionnaire construction,
2. sociometric techniques of sample selection, and
3. econometric techniques of data analysis.

The goal of the New York State comparable pay study is to examine the effects of sex and race segregation on the setting of salaries. The objective of the research is to specify—for the system as a whole and on a job title by job title basis—the precise relationship between occupational segregation and pay equity in New York State government employment for the three bargaining units represented by the Civil Service Employees Association. The study is being carried out in three steps.

As a first step, we are gathering information on the job content through a customized survey instrument and an elaborate employee sampling strategy, as survey and marketing researchers conventionally do. Our current design involves administering a structured questionnaire to over 15,000 employees in over 3,500 job titles across the State. The questionnaire, which has been pilot tested, asks people specific questions such as:

- How often do people in your job have to travel overnight on the job?
- How much control do people in your job have over spending money within a set budget?
- How much do people in your job do the same thing every day?
- How many people do you supervise directly as a regular part of your job?

For each question, employees must choose from among one of a number of possible responses provided to them. In this way, we will be asking the same questions to employees in many different job titles.

The questionnaire contains over 150 items addressing such job dimensions as:

- education and experience
- planning and problem solving
- personal contacts and relationship to other people
- stress
- working conditions
- skills, such as writing and mathematics, working with machines, public speaking, working with computers

In the second step, once we have collected these data, we will analyze it statistically by developing a compensation model for the New York State government employment system. By compensation model, we mean statistically establishing the relationship between the current wages paid for jobs in the State employment system and the content of these jobs. Examples of compensable job content are:

- How much is the need to regularly make quick decisions, meet deadlines, and tell people things they don't want to hear worth—in dollars and cents—to the State?
- How much is a certain job-related education requirement worth? Or a specified number of years of experience?
- How much is it worth to the State to supervise people who do routine work under close supervision? Or to supervise people who exercise considerable independent judgment? Or to supervise indirectly a large unit of employees in an agency?

Once we have established these relationships for the State system as a whole, we will statistically adjust this model to remove the impact of what we call "femaleness" and "minorityness." This procedure will provide us with a corrected compensation model that can then be applied to each female- and minority-dominated job title to obtain a predicted, nondiscriminatory wage rate. Thus, we will have information analogous to the point comparisons associated with other comparable worth studies. Yet, unlike other comparable worth studies, we do not make comparisons between specific male-dominated jobs and female-dominated jobs.[43]

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[42] The New York State comparable pay study is funded under monies bargained in a contract between the Civil Service Employees Association (CSEA), AFSCME, and the Governor's Office of Employee Relations (OER). CSEA represents approximately 100,000 employees in three of the six bargaining units representing State employees. The Center for Women in Government received a sole source contract from OER in June 1983. We expect to have study results back to labor and management in spring 1985.

As a third step, once we have provided, on a job title by job title basis, whether or not and to what extent the classification system undervalues the work performed in female- and minority-dominated jobs, we will complete an economic forecast to assess potential costs of closing any gap in wages that is determined to be related to sex or race segregation. We regard this as one of the most significant components of our project because it will offer labor and management several *options* for carrying out phased-in pay equity adjustments in a voluntary and efficient fashion.

We plan to vary estimates according to different assumptions regarding the amount of time necessary to close the equity gap. Similarly, we will provide estimates according to various orders of priority in closing the wage gap. For instance,

- Should we close the gap that is greatest first?
- Should we close the gap across the board?
- Should we close the gap in the lowest salary grade first?

The New York State study will yield important information to State policymakers and to the Civil Service Employees Association:

- It will not only examine the extent to which there is undervaluation of female and minority work in the overall salary structure. It will also identify which jobs have been undervalued and pinpoint the source of this distortion. Distortions may include inaccurate job descriptions or inconsistent application of points to job titles.
- It will provide this information with a method customized to the actual realities of New York State government employment.
- It will be the first study to provide information on the undervaluation of minority jobs as well as of female jobs.
- It will provide specific *cost estimates* of correcting for any observed undervaluation under a series of phasing-in options.

Currently, the center's comparable pay study team is in the midst of analyzing data from a pilot survey conducted in eight State agency and three State facility sites in Albany and New York City. The survey was distributed to over 1,800 employees in 80 job titles. It was designed to test certain methodological options about questionnaire construction, questionnaire reliability and validity, distribution methods and response rate, response rate in low incumbency titles, and using employee self-administered questionnaires as the source of information on job content.

We were very encouraged by the high response rate to the survey. Using four distribution methods—mailed, personnel distribution, union steward distribution, and onsite, captured-audience distribution—we had an overall response rate of over 60 percent. The response rate for the mailed questionnaire was approximately 64 percent. Moreover, as we scanned the returned questionnaires to prepare them for data entry, we were able to observe that employees were able to respond to our questions in a plausible fashion. Few items were left unanswered; the variations in response across job titles seems to follow an expected fashion. Of course, a full assessment of the reliability of the instrument awaits more formal analysis.

How, then, does our methodology meet the technical concerns discussed in the last section?

First, with respect to *sex bias:* Remick's framework pinpoints bias in the choice weighting of factors and in their application to job titles, and in the final specification of a salary structure. The New York State comparable pay study design minimizes these sources of bias in that:

- The questionnaire was constructed explicitly to include items that are disproportionately found in female-dominated jobs;
- There is no consultant or evaluation committee filtering of incumbent responses about job content;
- Computer-based statistical procedures will derive a compensation model, adjust it to remove "femaleness" and "minorityness," and apply the model to each female-dominated or heavily minority-encumbered job title.

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[43] We believe that such specific comparisons are technically unnecessary and politically unpalatable. It creates the impression that fairness for women is pitted against a seemingly artificially inflated wage for blue-collar male jobs. Comparable worth is rather directed at correcting a *system* that allows *employers* to benefit from paying women unfairly relative to their productivity-based contribution to the firm.

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- Once a compensation model has been delineated, it is up to policymakers (where there is a legislative task force) or labor and management (in a collectively bargained study) to correct factor weighting so as to compensate more equitably for job content characteristics disproportionately found in women's jobs.

As indicated previously, as a first step in developing the customized job content questionnaire, we developed an item list based on job content characteristics found to be compensable in other evaluation packages.[44] We reviewed New York State job specifications and conducted two waves of preliminary field testing of draft questionnaires on over 100 employees in almost 50 of the largest job titles. We included in this sample most of the large female and minority job titles. As a matter of routine, we probed both for additional job content items and for improved wording of items and instructions. We will continue to make revisions as a result of the pilot test.

Our overarching objectives in this respect were: (1) to include questions that would predict the current wage structure (i.e., the job content basis for hierarchically ordering jobs in relation to one another); (2) to include questions that would be highly related to female-dominated jobs and negatively related to current pay policy; and (3) to make it possible to compare job content across job titles. Meeting these objectives increases the likelihood that compensable features of women's jobs will be made visible and thereby acknowledged in equity adjustments. These may include such items as coordination and planning responsibilities, personal contacts, job stresses, and working with machines and equipment. Additionally, it provides the material on uncompensated features of these jobs that policymakers or labor and management may decide warrant compensation. These may include such items as receiving directions from many superiors and working with patients, clients, or inmates.

Moreover, the methodology involves developing and applying a compensation model directly from a large number of employee self-administered questionnaires. This eliminates the possibility that consultants or evaluation committees impose stereotypes on job descriptions or on assigning points to jobs based on these job descriptions. To be sure, employees carry these stereotypes as well. Yet, we have tried, wherever possible, to ask specific and factual questions about jobs. Then, we plan to average incumbent responses to obtain a composite job description. This averaging process, combined with a detailed questionnaire, provides, to our knowledge, the best available methodology for minimizing the tendency to overlook the job content characteristics of women's and minorities' work. With these three design features—a well-designed questionnaire sensitive to job content characteristics of work historically dominated by women and minorities; direct use of incumbent responses in the construction, weighting, and application of factor weights; and computer-based statistical analysis—we have gone a long way in improving the ways sex bias is minimized in job evaluation.

Second, with respect to *measurement problems:* existing methodologies have been criticized about sample selection (both of incumbents and of job titles), about questionnaire construction, about the development of composite job descriptions, about scaling-within factors, and about redundancy in job factors. As we began the New York State comparable pay study, we spent considerable time discussing and deciding upon methodological options for dealing with these study components. First, the policy-capturing approach requires that we include a representative sample of all New York State job titles. Given that low-grade-level titles have large incumbencies and high-grade-level titles have low incumbencies, we decided to sample all job titles in grades 3 to 22 with four or more incumbents and all job titles in grades 23 to 38. This gave us a total of 3,500 job titles in our sample. Second, for job titles with 13 or fewer incumbents, we will conduct a census; we will sample incumbents in the larger titles.[45] Incumbents will be selected through a stratified random sampling procedure.

Third, one of the major objectives of the pilot study currently underway is to test the reliability and validity of the job content questionnaire and to drop items unrelated to pay so as to shorten the final questionnaire. Fourth, as indicated above, rather than having a consultant write a composite questionnaire, we plan to average incumbent responses.[46]

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[44] Members of the comparable pay study team deserving special mention for their work on questionnaire development include myself, Donald Treiman, and Carol Possin.

[45] An incumbent sampling frame has not yet been finalized.

[46] This requires that the data be adjusted in order to remove a second source of statistical error that comes from sampling within

Fifth and finally, we plan to analyze the data by building scales through factor analysis techniques to ensure that the final factors and factor weights are both based on data about content in New York State jobs and nonredundant. Factor analysis is a statistical procedure that takes the basic information from the job content questionnaire and organizes it into nonoverlapping groupings. Based on these, job titles can be assessed in relation to the degree to which they contain each of these grouped job components.

Third, with respect to *adjusting the market line to remove discrimination:* recall that Treiman, Hartmann, and Roos (1984) identified four models that could be used to obtain predicted, adjusted salaries for female-dominated occupations. It is beyond the scope of this paper to delineate the conceptual bases for choosing among these options under the larger theory of comparable worth.[47] On the other hand, we do reject model I, the unadjusted market line, as the basis for predicting a fair wage for jobs historically held by women and minorities. This is because it is necessary to use some procedure for removing potentially discriminatory wages from a model that is used to correct for discrimination. Not to do so is to embed the problem in the solution! Although design decisions have not yet been finalized, we do plan to examine the data in terms of the other three adjustment models.

Comparable Worth: Implementation of Equity Adjustments

Rumors abound as to the great cost that will be incurred if comparable worth policy is implemented. Dire consequences have been predicted as a result of either costly litigation or expensive wage adjustments or both. Employer advocacy organizations have estimated that the cost of implementation could range from $2 billion to $150 billion. Although quite a range in itself—the high estimate being 74 times larger than the low estimate—we question the assumptions behind these provocative figures. These myths have escalated since the *AFSCME v. Washington* decision, which was reported by some newspapers as costing the State $900 million.

These economic chaos scenarios don't stand up in light of the voluntary wage adjustments that have recently taken place. Alice Cook, professor emerita at Cornell University School of Industrial and Labor Relations, recently documented several cases of voluntary implementation.[48] This was achieved through legislation in Minnesota and through collective bargaining in San Jose, California. One Connecticut union has already negotiated monies for salary adjustments in anticipation of their study results.

A comparison of the State of Washington and Minnesota implementation experiences can both redress opponents' concerns and suggest appropriate implementation strategies. First, the situation in Washington State. In 1974 Washington State commissioned a comparable worth study, the results of which showed that State employees in traditionally female jobs received about 20 percent less on average than State employees in traditionally male jobs of comparable value. In 1975 an update of this extended it to 85 more jobs (additional study updates were done in 1979 and 1980). In 1976 Governor Dan Evans appropriated $7 million to begin implementing comparable worth. In 1977 Evans' successor Dixie Lee Ray removed these appropriations. In this same year, the State legislature amended the compensation statutes to instruct State officials to provide it with separate, supplemental, comparable worth salary schedules, in addition to recommended salary schedules. The express purpose was to provide the legislature with specific costs of eliminating past wage discrimination and ongoing disparities in pay. Despite receiving these estimates, the legislature took no action from 1978 through 1982. After the AFSCME lawsuit was filed in 1983, the legislature appropriated $1.5 million to implement the elimination of pay disparity.

In September 1983 Federal District Court Judge Jack Tanner ruled that the State of Washington had intentionally violated Title VII of the 1964 Civil Rights Act by practicing "direct, overt, and institutionalized discrimination" by paying lower wages for jobs traditionally held by women than for jobs traditionally held by men. Under this ruling the plaintiffs are entitled to backpay since 1979. *It is the backpay award, and not simply the correction of the undervaluation of women's jobs, that has created the high price of the Washington State ruling.*

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the unit of analysis, which is the job title. These corrections must be made because typical linear regression models do not correct for this additional source error.

[47] A discussion of the contours of each model and its connection to comparable worth is the focus of another paper I am writing that is in the early stages of formulation.

[48] Cook, 1984b.

According to estimates provided by the manager of standards and surveys in Washington State, Tanner's order will cost about $325 million in backpay and $75 million per year in the future. With backpay this amounts to over 25 percent of the payroll, but *without back pay,* it amounts to roughly 5 percent of the annual payroll.

In contrast to Washington State, the Minnesota Legislature moved quickly to make comparable worth adjustments. A legislative advisory body called the council on the economic status of women established a task force on pay equity in October 1981. Using the job point evaluation system already in place in Minnesota, this task force put together a pay equity report estimating the undervaluation of traditionally female jobs. By March 1982 a pay equity bill was passed that provided for a phased-in equalization over 4 years. The cost over this 4-year period was:

- Seven million dollars for the first year correcting 25 percent of the undervaluation;
- Fourteen million dollars the second year correcting an additional 25 percent of the problem while still covering the first 25 percent;
- Twenty-one million dollars the third year correcting 75 percent of the undervaluation;
- Twenty-eight million dollars in the fourth year completing the correction for undervaluation.

The political morals of the story appear to be: not to put off for a decade what can be done in the next legislative session, and voluntary corrections are much cheaper than after-the-fact, litigation-based corrections.

In addition to being cheaper, voluntary corrections allow flexibility in phasing in implementations of comparable worth. For instance, as indicated above, the New York State comparable pay study includes an economic forecasting piece to assess potential costs of closing any gap in wages and to provide several options for carrying out phased-in pay equity adjustments in a voluntary and efficient fashion. We expect that the results of this cost estimation exercise will provide labor and management with the information necessary to implement change in a fair and fiscally responsible fashion.

Conclusion

We believe that the parameters of a national comparable worth policy are currently being formulated at the State and municipal level. Studies are still needed because, although there is growing acceptance of the fact of wage discrimination in general, there is no political consensus over which jobs are undervalued and by how much. Interest groups must combine strategies to bring about equity adjustments because the affected employees are relatively powerless, and the *nature of comparable worth* goes against the grain of the theoretical operating principles of the U.S. political economy. Yet, in its short history, comparable worth success has stimulated further other success. For example, collectively bargained agreements implementing pay equity adjustments have not only been significant to the employees they cover, they have also been powerful models for other employees seeking to eliminate wage discrimination in their employment contracts. Firm-level studies of the parameters of wage discrimination not only provide information to correct a specific wage structure, but also provide important material for educating women workers and the general public about the contours of wage discrimination.

Similarly, court cases established precedents for eliminating the most flagrant instances of intentional sex discrimination in compensation. Once these precedents were in place, they served as a resource for employee groups to pressure for change in their workplace. They provided, as well, a foundation for further legal precedents making illegal more subtle forms of wage discrimination.

As proponents of comparable worth build up a body of scientific evidence, establish legal precedents, and introduce pay equity adjustments into contracts, they negate the arguments of critics of comparable worth. Criticisms are best addressed when the policy is effectively implemented and without deleterious consequences. Moreover, as more firms adopt comparable worth, the resultant salary adjustments will permeate the wage structure of local markets. Through the process of pressure, innovation, education, imitation, and adjustment, the wages paid for work done primarily by women will catch up with the other profound changes in women's place in the labor market. These concrete actions transform a highly charged and controversial political demand into what no doubt eventually will become a routine and institutionalized feature of equal employment.

Although this paper has focused largely on technical considerations in assessing wage discrimination and in correcting it through an evolving policy of comparable worth, comparable worth is less a technical than a political issue. The very emergence of the issue of comparable worth can be regarded as both a cause and a consequence of the change in the power position of women in the labor market. The considerable progress that has been made on comparable worth since 1977 demonstrates the power women and minorities are able to command when they organize and press for legal and political change.

Moreover, what most women and minorities might have considered as a "fair" relative wage even 20 years ago is now proving unacceptable to them. Fundamentally, comparable worth is an issue of fairness. And as Eleanor Holmes Norton said, it is the equal employment issue of the decade.

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FACTUAL OVERVIEW

Current Comparable Worth Proposals at the Federal, State, and Local Levels

Overview of Pay Initiatives, 1974–1984

By Nina Rothchild*

Introduction

There has been an explosion of interest in pay equity in the last few years. Pay equity is now being addressed at the Federal, State, and local levels of government, in collective bargaining, and in the courts.

This review of pay equity initiatives is focused primarily on State and local government and union efforts to provide pay equity for public sector employees. The issue is being considered in the Federal Government civil service and in private sector employment. However, the pioneering work of pay equity has been undertaken in State and local government employment. Over 100 government initiatives have taken place in the last 4 years.

What Is Pay Equity?

This review uses the terms "pay equity" and "comparable worth" interchangeably. Both terms refer to "equal pay for work of comparable value." This is sometimes distinguished from "equal pay for equal work" required by the Federal Equal Pay Act.

"Equal pay for equal work" has generally meant equal pay for jobs with substantially similar job duties. That is, female truck drivers must be paid the same as male truck drivers in the same employment system, and male secretaries must be paid the same as female secretaries in the same employment system.

"Equal pay for work of comparable value" or "comparable worth" means equal pay for jobs that may have different duties but that require similar levels of skill, effort, and responsibility. That is, secretaries must be paid the same as janitors if their jobs require the same amount of skill, the same degree of effort, and the same level of responsibility.

The most important feature of pay equity, however, is that it is a method of eliminating wage discrimination on the basis of sex (some analyses include race as well). There is some confusion about the need for job evaluation systems that perfectly define all possible jobs, all possible factors, and all possible ways of measuring the value of factors. Pay equity does not require such impossibilities. It simply requires that wages be based on factors other than the sex of the persons who are performing the jobs in question.

What Is a Job Evaluation System?

Job evaluation systems provide one way of addressing the issue of pay equity. Such systems allow comparison of different jobs so that it is possible to determine to what extent persons in female-dominated jobs are unfairly underpaid. Job evaluation systems need not be complex or formal. They do not have to be written down. In fact, any employer who pays at different rates for different jobs may be said to be using a job evaluation system.

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* Commissioner of Employee Relations, State of Minnesota.

Although a job evaluation system need not be a "point factor" system—one that assigns points to various factors and then adds the points for each factor to arrive at a measure of "worth"—these systems appear to be the most helpful for identifying pay inequities based on sex. Therefore, when the terms "job evaluation study" or "job evaluation system" are used in this review, they mean point factor systems unless otherwise noted.

Overview of Pay Equity Initiatives

Pay equity initiatives, to date, have taken many forms. There have been studies, lawsuits, legislative proposals, executive orders, administrative actions, negotiating strategies, and many other kinds of initiatives. The initiators have included school boards, city councils, county commissions, State legislators, union leaders, women's organizations, personnel agencies, fair employment practices agencies, Governors, and other chief officials.

Most activities have focused on public sector employees. Most typically, a study is conducted of a particular civil service system to determine whether persons in "female" jobs are paid less for discriminatory reasons. Such a study may lead to more sophisticated job evaluation studies, to changing laws or policies, and/or to pay increases for persons in previously underpaid jobs.

Other pay equity initiatives have addressed fair employment practices laws, equal pay laws, and human rights laws. At least four administrative agencies are pursuing pay equity under fair employment practices laws (Alaska, California, Montana, and Oregon). The National Committee on Pay Equity has identified 15 States that have a comparable pay standard in a State equal pay act: Alaska, Arkansas, Georgia, Idaho, Kentucky, Maine, Maryland, Massachusetts, Nebraska, North Dakota, Oklahoma, Oregon, South Dakota, Tennessee, and West Virginia.

Examples of additional initiatives include the recent Michigan law prohibiting wage secrecy policies and the law enacted in the State of Wisconsin which requires that government contractors provide pay equity to their employees.

Pay equity activities do not occur as a result of one particular sequence of events. Typically, there are four conditions for change:

- Gathering and distributing information about the earnings gap between women and men, including information about job segregation.
- Gathering information about the value of jobs in a particular jurisdiction, usually through use of a job evaluation system, and comparing the actual salaries paid for "female" and "male" jobs to the value of such jobs as indicated by the job evaluation.
- Making a commitment to a pay equity policy, that is, to establishing pay without regard to the sex of those performing the job.
- Devising a method for implementing pay equity, that is, for improving the pay of previously undervalued female classes.

In many cases, job evaluation systems have been in place for decades, but no effort has ever been made to analyze the impact of the system on pay for male and female jobs. Frequently, the systems have not been used to establish pay policies of any kind. The task of advocates in these cases has been to determine the potential usefulness of, and degree of bias in, the existing system.

In jurisdictions where no job evaluation system has existed, advocates may gather information about the wage gap in order to demonstrate the need for a pay equity study, or they may work to improve representation on committees designing such studies to ensure that bias will be eliminated.

Pay equity policy may be established through legislative, executive order, or by other means. In some cases, policies have been established before implementation methods have been identified or before studies have been conducted.

Methods for implementing pay equity vary widely. In some jurisdictions, implementation must begin with basic data collection to establish the nature and scope of the problem. In virtually every case, implementation will eventually require allocation of funds or earmarking of existing funds for pay increases to underpaid, female-dominated employee classes.

The majority of actual pay equity increases have resulted from the collective bargaining process, typically as part of negotiations or in arbitration. AFSCME (the American Federation of State, County, and Municipal Employees) has filed a number of lawsuits in addition to the Washington State case and has about 80 pay equity cases pending before the Equal Employment Opportunity Commission. The Service Employees International Union (SEIU) bargains for cents-per-hour increases, including pay equity adjustments. SEIU also bargains for internal job evaluation committees made up of representatives of labor and management. This union discourages the use of studies conducted by outside consultants on the premise that such studies are more likely to be biased.

In this report, the section on chronology of pay equity activities illustrates the accelerating rate of change over the past decade with respect to this issue. Policymakers are turning their attention more and more from the question of whether pay equity is a valid issue to the question of how, and how quickly, to ensure proper implementation.

The section on pay equity initiatives in Minnesota reviews those actions in more depth. Minnesota has gone further than other States in actual implementation of pay equity. We now have the experience to show that implementation need not be extremely costly, chaotic, or controversial. Both the 1982 legislation affecting State employees and the 1984 legislation affecting local government employees are reviewed.

A brief section reviews conclusions that can be drawn from the experience of Minnesota and other employers in considering and implementing pay equity.

And finally, the last section includes a State-by-State listing of pay equity activity and a partial listing of local government initiatives.

Chronology of Pay Equity Activities, 1974–1984

1974: State of Washington conducts first job evaluation study designed to test for pay equity between female-dominated and male-dominated jobs. The study shows salaries for "women's jobs" are 20 percent lower than salaries for "men's jobs" rated equally valuable.

1976: State of Idaho adopts job evaluation system as its wage-setting method. Since then, about $7 million has been spent to implement pay equity for the State's 8,700 classified employees.

1977: State of Wisconsin passes legislation requiring "equal pay for work of equivalent skills and responsibility to eliminate pay disparity between occupational groups."

1978: In *Lemons v. City and County of Denver* (620 F.2d (10th Cir. 1980)), finding against intensive care nurses who assert they should be paid the same as sign painters, Judge Winner states that comparable worth is "pregnant with the possibility of disrupting the entire economic system of the United States." (U.S. District Court, District of Colorado) 17 FEP cases 906, 1978.

Michigan conducts a preliminary study of civil service employees which shows that State job classes are overwhelmingly male dominated or female dominated.

Alaska public health nurses file charges with the State human rights commission stating they are paid less than physicians' assistants, a mostly male job class. The commission finds probable cause to believe discrimination has occurred.

1979: National Academy of Sciences provides an interim report reviewing job evaluation systems as requested by the Equal Employment Opportunity Commission: *Job Evaluation: An Analytic Review.*

Minnesota job evaluation study is completed as part of consultant review of the State civil service system.

City of San Jose, California, and AFSCME commission a consultant study. The study shows a disparity of about $3,000 annually between similarly evaluated "men's" and "women's" jobs.

Connecticut Legislature funds a 2-year pilot study of State employees, which shows a 20 percent pay differential between "men's" and "women's" jobs.

1980: In *International Union of Electrical, Radio and Machine Workers, AFL-CIO-CLC v. Westinghouse Electric Corporation* (631 F.2d 1094 (3rd Cir. 1980)), the court finds in favor of the union. The historical basis for intentional pay discrimination was identified by the IUE in a 1939 Westinghouse wage administration manual.

The California Fair Employment and Housing Commission finds that the city of Napa misclassified and underpaid an employee because of her sex by failing to reclassify her from the clerical position for which she had originally been hired, despite the fact that she had taken on additional tasks. The judge held that the State's fair employment practice law is not limited to equal pay situations.

The City Council of Colorado Springs, Colorado, directs the city administration to adopt a 4-year plan designed to eliminate up to 80 percent of the wage differential between clerical and maintenance workers. These classifications had been rated comparable under the city job evaluation system, and an ordinance requiring internal equity for city salaries has been passed.

1981: San Jose, California, city workers go on strike. The eventual settlement allows adjustments of $1.4 million over a 2-year period in addition to a 7.5 percent general raise.

Clerical workers in the Anoka-Hennepin School District, Minnesota, go on strike. The eventual settlement includes an increase to $7.75 an hour for clerical workers who had been with the district for 20 years, and agreement to a pay equity study.

The California Department of Fair Employment and Housing files charges against the County of Madera. The department asserts that the county created the position of matron-dispatcher specifically to be filled by women and therefore underpaid.

In *Gunther v. County of Washington,* 452 U.S. 161 (1981), the U.S. Supreme Court rules that Title VII is broader than the Equal Pay Act and can be applied to sex-based wage discrimination in jobs that are not identical. Two weeks after this decision, the court denies a request from Westinghouse to review the *IUE* case.

California passes legislation establishing pay equity as a wage-setting policy and requiring the personnel department to compare the work of male and female State employees in order to equalize pay.

Minnesota Commission on the Economic Status of Women establishes a pay equity task force comprised of legislators, labor, management, and the general public to consider pay equity for State employees.

The San Francisco Board of Supervisors passes a resolution to eliminate pay inequities based on race- and sex-segregated occupations and requests that the civil service commission conduct a job evaluation study of city classifications.

1982: Minnesota passes legislation establishing pay equity as the primary consideration in wage setting for State employees and setting up an implementation procedure.

Pay equity policies for State employees are approved and job evaluation studies are required by resolutions in Hawaii and Kentucky (Kentucky providing $14,000 for a study), and by legislation in Illinois ($10,000 for a study).

California Department of Fair Employment and Housing files sex discrimination charges on behalf of all women employed as tellers by the Bank of America. The department asserts that salary levels are depressed for teller jobs because these jobs are held predominantly by women.

1983: Minnesota appropriates $21.8 million for pay equity increases to employees in female-dominated classes, effectively establishing a 4-year timetable for full implementation. In the same year, actual pay increases are negotiated as part of the collective bargaining process. About 8,225 employees received pay equity adjustments. All clerical workers received such adjustments, averaging $1,601 over the biennium. About half of health care employees received adjustments averaging $1,630 over the biennium.

New Mexico appropriates $3.3 million for increases for the 3,000 lowest paid State employees (86 percent of whom are women) and requires a study.

California extends its 1981 law to provide pay equity policies and conduct studies of higher education employees' pay. The law also creates a California Commission on the Status of Women task force on comparable worth.

The Sonoma County, California, Commission on the Status of Women begins a research-public education project on traditional women's occupations. Activities include a survey of all registered nurses in the county (both public and private sector positions), a public hearing, and preparation of a report. The commission will then repeat these activities with a focus on clerical work.

In Connecticut, predominantly female bargaining units (health care, clerical, and social service workers) each successfully negotiate for 1 percent pay equity funds in addition to the general 5 percent increase.

The Los Angeles Board of Education allocates $30,000 to prepare a cost and options analysis in preparation for a job evaluation study and directs negotiators to "identify and upgrade salaries of employees in underpaid, female-dominated job classifications" during negotiations. The proposed study will be the first to include teaching as well as nonteaching employees. It will also be significant because it will address the second largest school district (60,000 employees) in the country.

Madison, Wisconsin, establishes guidelines requiring a review of city contracts with private firms to "determine whether comparable pay exists for comparable positions." All vendors must set percentage goals for hiring of women, minorities, and disabled people, and the same goals must be used for distribution of salary to these groups.

Library workers in Long Beach, California, receive equity increases as a result of an agreement between the library director and the city manager. These increases of 5 percent in addition to the 7 percent contractual pay increase were notable for the simplicity of the process: no job evaluation studies had been done, and no official pay equity policy existed.

The city of Princeton, Minnesota, provides pay equity to city workers. Six of the city's 33 employees received special adjustments based on a job evaluation system developed by the city. Total cost to the city, which required no consultants, was $10,000—one-tenth of 1 percent of the city budget.

Illinois Nurses Association, American Nurses Association, and AFSCME file an EEOC complaint against the State of Illinois. Two bills are introduced in the Illinois Legislature: one requiring a comprehensive job evaluation study, and one including a pay equity standard in the State equal pay act.

Congressional hearings on pay equity are conducted by Reps. Mary Oakar, Olympia Snowe, and Geraldine Ferraro.

A number of pay equity proposals are introduced in Congress:

> *S. 1900, Pay Equity Act of 1983,* Sen. Alan Cranston. Provides directives and guidance for Federal agencies charged with enforcement of equal employment opportunity laws.
>
> *S. Con. Res. 83, Commission on Pay Equity,* Sen. Dan Evans. Requires a job evaluation study of the legislative branch, development of a plan to ensure pay equity. Cosponsors include Senators Chafee, Boschwitz, Andrews, Percy, Durenberger, Hatfield, Packwood, Moynihan, Burdick, and Pell.
>
> *H.R. 4237, Federal Government Comparable Worth and Pay Equity Act of 1983,* Rep. Mike Lowry. Would require equal pay for work of equal value in the Federal civil service.
>
> *H. Con. Res. 239, Commission on Pay Equity,* Rep. Olympia Snowe. Similar to S. Con. Res. 83, but incorporating amendments endorsed by the National Committee on Pay Equity. Cosponsors include Representatives Dicks, Frank, Martin, McKernan, Oakar, and Schroeder.

Legislation passes in Montana, Iowa, and Oregon establishing pay equity policies for State employees and requiring studies. The Oregon bill provides $300,000 for a study. Resolutions are adopted in Missouri and Nevada with similar provisions.

Washington State enacts legislation appropriating $1.5 million for salary increases to lowest paid workers and establishing a 10-year timetable for implementation of pay equity for State employees. Late in the year, the State loses its Title VII case, *American Federation of State, County, and Municipal Employees v. State of Washington.* Judge Tanner said the legislative actions do not provide an adequate remedy especially in light of the number of years since the 1974 study with no State action. Current costs plus backpay damages are now estimated at about $300 million.

1984: Additional legislation is introduced in Congress:

> *H.R. 4599, Federal Employees' Pay Equity Act of 1984,* Rep. Mary Rose Oakar. Requires development of job evaluation techniques for Federal civil service, provides directives for enforcement of Federal equal employment opportunity laws, and brings Federal wage-setting practices into compliance with pay equity principles. Cosponsors include Representatives Edwards, Ferraro, Gray, Hoyer, Kastenmeyer, Kennelly, Leland, Moody, and Snowe.
>
> *H. Con. Res. 244, Pay Equity Resolution of 1984,* Rep. Pat Schroeder. Expresses the sense of the Congress that the EEOC, Departments of Justice and Labor, Office of Personnel Management, and other agencies have been derelict in enforcing the provisions of Title VII which include pay equity. Cosponsors include Representatives Ferraro, Mikulski, Kennelly, Boxer, Hall, Kaptur, Oakar, and Collins.

New Jersey passes legislation establishing a pay equity policy for State employees, establishing a task force, and requiring a job evaluation study. The legislation appropriates $150,000 for the current fiscal year, and an additional $150,000 allocation is anticipated for the next fiscal year.

Group Health Plan nurses in St. Paul, Minnesota, receive pay equity increases as a result of SEIU negotiations.

Minnesota: A Case Study

Background

Minnesota State government has about 34,000 full-time employees working in more than 1,800 job classifications. State employees are covered by the Public Employment Labor Relations Act, which defines 16 bargaining units based along occupational lines. Eleven unions represent these units with 6 of the units represented by the American Federation of State, County, and Municipal Employees (AFSCME). About 86 percent of the employees in State government are covered by collective bargaining agreements.

In 1979 Hay and Associates, a personnel consulting firm, and the Minnesota Department of Employee Relations established a job evaluation system to measure the content of jobs in State service. The Hay system assigns points to jobs based on four factors: (1) know-how, (2) problem solving, (3) accountability, and (4) working conditions. The "value" of a job is determined by adding up the point value for each of the factors. The cost of designing and implementing the Hay job evaluation system was about $85,000.

In October 1981 a task force was established by the legislative advisory council on the economic status of women to study pay practices for male and female employees in State service. On the task force were members of the Minnesota House and Senate, representatives of Minnesota's Department of Employee Relations, union representatives, and members of the public. Using the Hay job evaluation system, the study documented salary disparities between male-dominated and female-dominated job classes and recommended that the legislature appropriate money to eliminate the disparities. The estimated 1-year cost for full implementation was $26 million, an amount that is equivalent to 4 percent of the State's payroll.

Legislation for State Employees

In 1982 the State legislature changed the personnel law covering State employees to (1) establish a pay equity policy and (2) establish a procedure for making comparability adjustments. The policy statement reads:

> It is the policy of this state to attempt to establish equitable compensation relationships between female-dominated, male-dominated, and balanced classes of employees in the executive branch. Compensation relationships are equitable within the meaning of this subdivision when the primary consideration in negotiating, establishing, recommending, and approving total compensation is comparability of the value of the work in relationship to other positions in the executive branch. (Minnesota Statutes 1982, chap. 43A, subd. 3)

The procedure for making pay adjustments is as follows:

- By January 1 of odd-numbered years, the commissioner of employee relations submits a list of female-dominated classes that are paid less than other classes with the same number of Hay points. Also submitted is an estimate of the cost of full salary equalization.
- The Minnesota Legislative Commission on Employee Relations recommends an amount to be appropriated for comparability adjustments to the house appropriations committee and the senate finance committee.
- Funds for comparability adjustments are appropriated through the usual legislative process. These funds are within the salary supplement, but may be used only for salary equalization according to the job classes on the list submitted by the commissioner. Any funds not used for this purpose revert back to the State treasury.
- Appropriated funds are assigned to the different bargaining units proportional to the total cost of implementing pay equity for the persons in the job classes represented by that unit. The actual distribution of salary increases is negotiated through the usual collective bargaining process.

Implementation of Pay Equity for State Employees

In January 1983 the Minnesota Department of Employee Relations submitted to the legislature a list of female-dominated occupations that were underpaid in relation to the average salary for male-dominated classes at the same point level. The legislature approved the list of job classes for pay equity adjustments.

The legislature then approved a biennial appropriation of $21.8 million. This amount was designated separately from funds appropriated for general wage adjustments for all State employees. If a similar amount is appropriated in 1985, pay equity will be implemented within 4 years. The money was allocated to units based on the cost to each bargaining unit to bring classes within that unit to equity.

All union contracts have now been signed. Some of the results of collective bargaining on pay equity are as follows:

- Approximately 151 job classes got pay equity increases.
- About 8,225 employees received pay equity adjustments.

- All of the clerical workers will receive on average an additional $1,601 over the biennium as a result of pay equity.
- Half of the health care employees will receive pay equity raises averaging $1,630 over the biennium.

Legislation for Local Governments

In 1984 the Minnesota Legislature passed a bill extending pay equity to local governments: cities, counties, and school districts. These jurisidictions (855 cities, 87 counties, and 436 school districts) account for an estimated 163,000 workers. About 56 percent are female.

The 1984 bill requires each political subdivision of the State to establish equitable compensation relationships between female-dominated, male-dominated, and balanced classes of employees using the same definition of "equitable compensation relationships" as the State employees' law. The bill also requires that each subdivision use a job evaluation system to determine comparable work value. Subdivisions may establish their own system or use a system used by some other public employer in the State.

In order to allow for an orderly, cooperative process, the bill also includes some protections for local governments that make good faith efforts to comply with the law. The bill prohibits the State human rights department and State courts from considering or using the results of any job evaluation system in discrimination proceedings commencing before August 1, 1987. Data collected by the job evaluation study are defined as private data until August 1, 1987.

The bill establishes the following timetable:

- By October 1, 1985, each jurisdiction must make a report to the commissioner of employee relations on its plan for implementation of pay equity. The report must include lists of classes, the percentage of incumbents who are female, the comparable work value and current salary of each class, a description of the job evaluation system used, and a timetable for implementation.
- By January 1, 1986, the commissioner of employee relations must report to the legislature on the information gathered from these local governments.
- On August 1, 1987, the protection of local governments from legal action and the classification of job evaluation information as private data expire. Jurisdictions that have not taken meaningful steps toward implementation will be vulnerable to lawsuits.

The bill requires the department of employee relations to provide technical assistance to local governments requesting help in this process. Although the bill was only enacted in late April of this year, many local governments have already requested assistance. We expect that almost all cities, counties, and school districts will have made significant progress toward implementing pay equity by 1987 or sooner.

Summary and Conclusions

Pay equity has received a great deal of attention in the past decade, and significant steps have been taken in eliminating this form of sex-based wage discrimination. Continued action can be expected on the part of labor, management, and the executive, legislative, and judicial branches of government. What conclusions can be drawn from the last 10 years?

- The basic principles of pay equity are simple and clear. Sex-based wage discrimination is against the law. Pay equity is a method to uncover and eliminate sex-based wage discrimination.
- Most existing job evaluation studies show similar patterns, with pay disparities of about 20 percent between male-dominated and female-dominated jobs.
- The cost of implementing pay equity also remains relatively consistent across jurisdictions, and this cost is minimal: 4 percent of total payroll for the State of Minnesota, one-tenth of 1 percent total budget for the city of Princeton, Minnesota.
- There is no conflict between pay equity and legitimate questions of temporary labor shortage in specific occupations. The Minnesota law, for example, allows for other considerations in establishing pay, while specifying that pay equity will be the primary consideration.
- The incentive for management to undertake pay equity initiatives is clear. Efforts undertaken promptly and in good faith are less costly, more orderly and controllable, and more conducive to good employee and community relations.
- Job evaluation systems need not be perfect in order to address the demand for pay equity. In almost every case, an imperfect job evaluation system will assist in identification of classes that are underpaid in relation to job value. Such an

imperfect system is bound to be better than no system.

- Job evaluation studies are mostly readily accepted if a wide range of constituencies have an opportunity for input and decisionmaking. Discussion should include representatives of management and labor, men and women.
- An acceptable timetable for implementation of pay equity has not yet been established. However, employers will do well to remember that the 10-year timetable established by the State of Washington after litigation had commenced was considered inadequate by the judge in finding against the State.
- In the future, when consulting firms are used, there will be more pressure to allow for broad-based input and to eliminate sources of bias. Such firms will be called upon to demonstrate that they can do more than simply mirror the status quo.
- Methods of reducing the cost and complexity of job evaluation studies are emerging quickly. "Piggy-back" studies that allow comparisons among jurisdictions will probably be used more often in the future.

Appendix

State Pay Equity Legislation

State	Year	Description
Alaska	1980	Adds specific comparable worth (CW) language to fair employment practices (FEP) law.
California	1981	Establishes CW as policy for State workers, requires annual reports.
	1983	Prohibits local government ordinances or policies which preclude consideration of CW.
	1983	Creates commission on status of women task force on CW.
	1983	Adds specific CW language to FEP law. (Pending as of 5/1/84.)
Connecticut	1979	Pilot study for State workers.
	1981	Full job evaluation (JE) study for State workers.
Hawaii	1981	(Resolution) Urges employers to adopt CW policies.
	1982	Requires report and recommendations on CW for State employees.
Idaho	1977	Provides for JE study on State employees.
Illinois	1982	Requires pilot CW study for civil service; $10,000.
	1983	Requires comprehensive JE study for civil service. (Pending as of 5/1/84.)
	1983	Includes CW standard in State equal pay act. (Pending as of 5/1/84.)
Iowa	1983	Establishes CW policy, requires JE study of civil service, appropriates $150,000 for study.
Kentucky	1982	Allocates $14,000 for JE study.
Massachusetts	1983	Requires JE study of civil service, appropriates $75,000 for study.
Michigan	1982	Amends wage and hour law to prohibit wage secrecy policies.
Minnesota	1982	Establishes CW policy and process for civil service.
	1983	Appropriates $21.8 million for CW increases.
	1984	Requires local governments to implement CW.
Missouri	1983	Requires report and recommendations on CW for civil service; establishes CW policy.
Montana	1983	Requires "work toward the goal of establishing equal pay for comparable worth," study and annual report.
Nebraska	1978	Requires preliminary civil service study.
Nevada	1983	Requires preliminary civil service study.
New Jersey	1984	Establishes task force to study civil service; appropriates $150,000. (Not yet signed by Governor as of 5/1/84.)
New Mexico	1983	Appropriates $3.3 million in salary increases to lowest paid State workers.
Oregon	1983	Requires JE/CW study for civil service; appropriates $300,000 for study.
Pennsylvania	1983	Adds CW language to FEP law. (Pending as of 5/1/84.)
Virginia	1984	Requires research on CW.
Washington	1977	Requires biennial update of 1974 JE study that had not yet been implemented.
	1983	Establishes CW policy for civil service and sets up a 10-year implementation plan.
	1983	Appropriates $1.5 million for salary increases to lowest paid workers.
Wisconsin	1977	Establishes CW policy for civil service.

Other State-level Activity

State	Year	Description
Illinois	1983	AFSCME wins pay equity increases for word processing operators through arbitration.
Hawaii	1983	AFSCME wins pay equity increases for nurses through arbitration.
Connecticut	1983	AFSCME negotiates pay equity increases for clerical workers.

Local Pay Equity Initiatives (a partial listing)

Local Government	Type	Description
Fresno, CA	City	Information gathering; pay equity policy.
San Francisco, CA	City	Information gathering; pay equity policy.
Sonoma County, CA	County	Information gathering.
South Lake Tahoe, CA	City	Information gathering.
Alameda County, CA	County	Information gathering.
Colorado Springs, CO	City	Information gathering; implementation.
Berkeley, CA	City	Information gathering.
Montgomery County, MD	County	Information gathering.
Los Angeles Sch Di, CA	School	Information gathering.
Minnetonka SD, MN	School	Negotiated CW increases.
Osseo SD, MN	School	Information gathering.
Northfield SD, MN	School	Information gathering.
Tucson SD, AZ	School	JE study.
Chico SD, CA	School	JE study.
Manhattan Beach, CA	School	JE study.
Sacramento SD, CA	School	JE study negotiated by SEIU.
San Lorenzo SD, CA	School	JE study.
Hunter College, NY	School	JE study.
Virginia Beach, VA	City	JE study; implementation.
Bellevue, WA	City	JE study; implementation.
Renton,WA	City	JE study; implementation.
Seattle, WA	City	JE study.
Los Gatos, CA	City	Pay equity policy.
Long Beach, CA	City	Implementation.
Burlington, VT	City	Implementation.
Princeton, MN	City	JE study; implementation.
Los Angeles, CA	City	Pay equity increases negotiated (AFSCME).
Spokane, WA	City	Pay equity increases negotiated for all female-dominated classes (AFSCME).
Green Bay, WI	City	Pay equity increases for nurses of $118 per month (AFSCME).
San Mateo, CA	County	Pay equity increases negotiated. (AFSCME).
San Jose, CA	City	Pay equity increases negotiated (AFSCME).
Hennepin County, MN	County	Pay equity increases negotiated for welfare eligibility technicians (AFSCME).
Belmont, CA	City	Pay equity increases negotiated (AFSCME).
Woodland Hills, PA	School	Pay equity increases negotiated; implementation on a 3-year schedule (SEIU).
Vacaville, CA	School	Negotiated for comparable worth committee and pay equity study (SEIU).
Mott Comm. College, MI	School	Negotiated for JE study and appeals procedure for classification decisions (SEIU).
Santa Clara, CA	County	Negotiated for reclassification of many jobs and pay equity adjustments (SEIU).

PANEL

Legal Perspectives and Precedents

Race- and Sex-Based Wage Discrimination Is Illegal

By Winn Newman and Christine Owens[*]

Introduction

My name is Winn Newman. I am an attorney in private practice, specializing in the representation of unions and women and minority workers. I am delighted to have the opportunity to discuss with you today one aspect of this country's movement towards equality: elimination of wage discrimination against the millions of women, blacks, and other minorities who are an integral and indispensable part of the Nation's work force.

At the outset, it should be emphasized that Title VII of the Civil Rights Act as well as Executive Order 11246 expressly prohibit discrimination in compensation. Neither the act nor the Executive order refers to comparable worth or pay equity.[1] As this Commission's mandate is to encourage compliance with existing law, this paper will focus on the law's prohibition against discriminatory wage rates, not on "comparable worth," "pay equity," or other terms that are being used to mask the issue of whether wage disparities result from discrimination.

I have been filing Title VII sex- and race-based wage discrimination suits since 1971, predominantly in the electrical manufacturing industry and public employment. All of these cases have been successfully settled or are pending. Most recently, I represented the American Federation of State, County and Municipal Employees (AFSCME) against the State of Washington. In that case, District Court Judge Jack Tanner found that the State had intentionally engaged in "institutional" and "systemic" discrimination in pay against State employees working in predominantly or traditionally female jobs. Washington State is a significant milepost, but—contrary to the claims of its detractors—it is neither radical nor revolutionary.[2] Rather, it is a simple and straightforward affirmation of what Title VII requires: that women—like blacks, Hispanics, Jews, or other racial, ethnic, or religious minorities—cannot be paid less for the work they do *simply because they are women.* And it follows in the tracks first laid 30 years ago by the seminal *Brown v. Board of Education* decision, in which a unanimous Supreme Court held that "[s]eparate educational facilities are inherently unequal," and "separating the races is usually interpreted as denoting the inferiority of the Negro group."[3] In the vast majority of workplaces today, employers are responsible for having segregated the sexes and then providing lower wages for women's jobs because of the perception of women workers as inferior.

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[*] Winn Newman & Associates, Washington, D.C.

[1] The House Committee on Government Operations recently explained that it had "adopted the term 'sex-based wage discrimination' in examining EEOC's enforcement activities" because "comparable worth and pay equity are popular terms not legal ones." The unanimous report of the Committee concluded that the Equal Employment Opportunity Commission, by not processing cases involving sex-based wage discrimination, had failed to act on issues that were decided by the Supreme Court nearly 3 years ago. *Thirty-Ninth Report by the Committee on Government Operations,* House Report 98-796, May 22, 1984. (Hereafter cited as *Thirty-Ninth Report by the Committee on Government Operations.)*

[2] The *American Heritage Dictionary* defines "radical" as "basic" or "fundamental" and "revolutionary" as that which brings about "momentous" change. In this sense, Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e *et seq.*, is itself radical and revolutionary: its entire purpose and design was to bring about fundamental and momentous change, i.e., to eradicate invidious and pervasive employment discrimination from the American

All Sex-Based Wage Discrimination Is Unlawful

Disparities in pay between male and female workers, like disparities between blacks and whites, that are based on the sex or race of job occupants and not on the jobs themselves are—plainly and simply—unlawful. Under Title VII, it is legally irrelevant whether the women or blacks are performing the same jobs as the men or whites, or are in totally different jobs. Rather, as the Supreme Court made clear in *County of Washington v. Gunther,*[4] any wage differential that is the result of discrimination is *against the law.* The Court's holding in *Gunther,* coupled with its simultaneous decision to leave undisturbed the Third Circuit's decision in *IUE v. Westinghouse,*[5] can lead only to one conclusion: that sex-based wage discrimination is no less illegal than wage discrimination based on race, national origin, or religion. The issue is not comparable worth; the issue is wage discrimination. And Title VII is violated *whenever* blacks or Hispanics or Italians or Jews or women are paid less for the work they do because of their race or national origin or religion or sex. This is no longer open to debate.

That sex-based wage discrimination is unlawful is hardly a startling proposition. It is so simple, straightforward, and eminently reasonable that one wonders why it should be controversial. Indeed, beginning as long ago as 1971, numerous sex-based wage claims involving dissimilar jobs were successfully pursued by IUE (International Union of Electronic, Electrical, Technical, Salaried, and Machine Workers) against General Electric Corporation, Westinghouse Corporation, and other electrical manufacturing companies.[6] On behalf of its female and male members who occupy predominantly female jobs, IUE recovered tens of millions of dollars and eliminated future discrimination for thousands of these workers. Moreover, as early as 1966 the EEOC—as a matter of course—began issuing Title VII decisions holding employers liable for race- and sex-based wage discrimination, without regard to whether the jobs involved were equal.[7] No one questioned the propriety of these decisions at the time. And these decisions, in conjunction with *Gunther* and lawsuits following in its wake, clarify that the issue in these cases is garden variety sex discrimination. Since there is apparently, however, a great deal of misunderstanding on this, it is important to stress what is—and is not—involved in sex-based, wage discrimination litigation.

First, these cases do not call for a bold new approach to Title VII. Rather, in the area of wage discrimination as elsewhere, *individual employers* are to be held liable for their *own individual acts of discrimination.* Indeed, wage rates and compensation practices of other employers are basically irrelevant to the issue of whether a particular employer has paid its female employees a discriminatory wage. The determination of wage discrimination involves a straightforward application of traditional Title VII burdens, standards, and means of proof.

Second, Title VII does not require the development of a uniform, national, job evaluation system against which all jobs will be measured and wage rates determined. But the results of an individual employer's own past or present job evaluations are relevant evidence in showing sex-based wage discrimination.

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scene. The *Washington State* decision is merely a statement of what Title VII requires in the area of wage discrimination.

[3] 347 U.S. 483, 494, 495 (1954).

[4] 101 S.Ct. 2242 (1981).

[5] 631 F.2d 1094 (3d Cir. 1980), *cert. denied,* 452 U.S. 967 (1981).

[6] Precedent for these cases predated Title VII. During World War II, the War Labor Board dealt with a number of cases that involved allegations of intraplant, sex-based wage inequities. And indeed, the board ordered wage adjustments to equalize the wages for men and women who performed different work, but work that was of equal skill, effort, and responsibility. The war ended before these decisions were fully implemented. See, e.g., General Motors Corp., II War Lab. Rep. (BNA) 733, 746 (1943).

[7] Planters Mfg. Co. (race-based wage discrimination, 1966); Case No. 66-5762 (decided June 20, 1968), 1973 CCH EEOC Decision Sec. 6001, n.22; Decision No. 70-112 (Sept. 5, 1969), 1973 CCH EEOC Decision Sec. 6108; Decision No. 71-2629 (June 25, 1971), 1973 CCH EEOC Decision Sec. 6300.

Third, Title VII's prohibitions against wage discrimination may not require that employers ignore the "laws of supply and demand" in setting wage rates. But "the market" can no more be used to defend sex-based wage discrimination or justify its perpetuation than it can be raised as a justification for racial or ethnic or religious discrimination. Few would publicly suggest that Title VII permits an employer to exploit black workers by paying them lower wage rates than whites simply because the black unemployment rate is so tragically high and the supply of blacks is so much greater than the demand. Why, then, should the same "market" argument—oversupply of women for "women's" jobs—be a defense to sex discrimination?

Fourth, in response to those who argue that the elimination of wage discrimination will discourage women from seeking "men's" jobs and will discourage integration of the work force, it is significant that the continuation of sex-based wage discrimination under Title VII for the past 20 years has not produced a significant dent in the illegal and deeply entrenched patterns of sex segregation in the work force. (As table 1 shows, women are every bit as concentrated in traditional occupations now as they were 10 years ago.) Moreover, segregating the work force is a two-way street: if women are to move into men's jobs, then men must move into women's. Ending sex-based wage discrimination is the only way to ensure this two-way movement, since men would otherwise have no incentive to abandon the traditionally higher paid male preserves in the work force. All this aside, it is manifestly no defense to sex-based wage discrimination that women would make more money if they were in men's jobs. It is patently and fundamentally unfair to tell women who have devoted years to developing specialized training and skills that they are not entitled to be compensated for these skills, that they must move into men's jobs in order to earn more money, and that, in the absence of such less-skilled "male" positions, they are simply out of luck.

Table 1
Percentage Female of Traditional "Women's" Occupations, 1973 and 1983

	1973	1983
Secretaries	99%	99%
Child care workers	96	97
Registered nurses	98	96
Billing clerks	83	88
Waiters, waitresses	92	88
Librarians	83	87
Health technicians	72	84
Elementary school teachers	81	83
Bank tellers	90	81
Retail sales clerks	69	70

Source: Reprinted from Louisiana Employment Opportunities Association, 1984 (source data: *U.S. News and World Report*: U.S. Department of Labor).

The cost to society itself would be incalculable were millions of working women—nurses, teachers, child care specialists, librarians, secretaries—to forsake their callings wholesale so they could be paid more as toll collectors, custodial workers, golf course attendants, zookeepers, and parking lot attendants. This is not to disparage any of these latter positions. But it is nothing short of unconscionable to suggest that those women to whom we entrust the care and education of our children, the specialized care and education of our children, the specialized care and treatment of the sick and aged, the nurturance of our minds, many exceedingly important business matters, and other critical aspects of everyday life—that those women are told they must forsake their acquired skills and find an employer to give them a man's job (e.g., being responsible for animals or property in lieu of people—the aged, the sick, or children) in order to earn a fair and nondiscriminatory wage.

Finally, vigorous law enforcement of Title VII to end wage discrimination will not result in lower wages or loss of jobs for working men. Suggestions to the contrary are nothing more than crocodile tears and divide-and-conquer scare tactics, akin to the tactics designed to foment racial hatred and bigotry. Tactics employed by race and sex bigots have no place in a society that believes in fairness and justice and that is committed to vigorous enforcement of antidiscrimination laws.

The *Gunther*, *IUE v. Westinghouse*, and *AFSCME v. Washington State* cases, as well as numerous others, illustrate precisely the points discussed above. In each of those cases, the courts concluded that certain kinds of evidence would show that wage rates were discriminatory. As such, the courts were confronted with garden variety sex discrimination that compels a finding of a Title VII violation, coupled with an award of backpay and adjustment of the wage rate for the predominantly women's jobs.[8]

Proving Title VII Wage Discrimination Cases

After *Gunther* and *IUE*, the question that remained was not whether Title VII applies to wage discrimination claims when male and female jobs are dissimilar, but simply how those claims were to be proved. *Gunther* indicates, and the extant case law makes clear, that standard Title VII burdens and modes of proof apply in the wage discrimination context as well. This makes eminently good sense from the standpoint of statutory construction; is fully consistent with Title VII decisions holding that prohibitions against sex discrimination are on a par with those against discrimination based on race, national origin, or religion;[9] and comports with the relevant legislative history.

The Supreme Court has recognized two modes of proceeding to prove employment discrimination claims, i.e., the disparate treatment and disparate impact theories. Neither theory requires plaintiffs to demonstrate a "smoking gun." Rather, to the extent that any showing of intent to discriminate is required, it may be inferred from such time-honored and proven techniques as showings of gross statistical imbalances or other discriminatory conduct not directly related to the allegations at issue. In neither *Gunther* nor any other decision did the Supreme Court indicate that either of these theories do not apply to sex- or race-based wage discrimination cases.

The disparate treatment analysis applies to claims brought under section 703(a)(1) of Title VII.[10] The Supreme Court has made it clear that the elements of a plaintiff's prima facie case vary with the factual circumstances in each case.[11] To prove disparate treatment, however, plaintiffs must initially produce evidence from which an inference can be drawn that the reason for a complained-of action was discrimination. There is a wealth of case law describing various types of evidence that suffice for this purpose.[12]

In class cases (and for some purposes, in individual cases), statistics play a major role, either to bolster other evidence or, where sufficiently "gross," to establish the prima facie case. The Supreme Court explained the importance of such statistical showings in its decision in *Teamsters* stating that:

> [O]ur cases make it unmistakably clear that "[s]tatistical analyses have served and will continue to serve an important role" in cases in which the existence of discrimination is a disputed issue. . . .We have repeatedly approved the use of statistical proof, where it reached proportions comparable to those in this case, to establish a prima facie case of racial discrimination in jury selection cases. . . .Statistics are equally competent in proving employment discrimination.
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> Statistics showing racial or ethnic [or sexual] imbalance are probative. . .because *such imbalance is often a telltale sign of purposeful discrimination:* absent explanation, it is ordinarily to be expected that nondiscriminatory hiring practices will in time result in a work force more or less representative. . . .Evidence of longlasting and gross disparity between the composition of a work force and that of the general population thus may be significant. . . .
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> "*In many cases the only available avenue of proof is the use of racial [or sexual] statistics to uncover clandestine and covert discrimination.*" [emphasis added][13]

Teamsters involved racially discriminatory hiring, assignment, promotion, and transfer policies. But its language about the role and value of statistics is equally applicable to claims of race- or sex-based wage discrimination, as the decisions of numerous courts reveal.

After the plaintiff has established her prima facie case of disparate treatment, the burden shifts to the defendant to articulate a legitimate nondiscriminatory reason for the adverse action. This is not a particularly onerous burden, but it does require more of the defendant than mere assertion. Rather, as the Court held in *Texas Department of Community Affairs v. Burdine*,[14] the defendant must come forward with evidence sufficient to dispel the prima facie inference of discrimination. If the defendant fails to do that, it loses; if the defendant is successful, the plaintiff may still prevail by demonstrating that the defendant's explanation is really a pretext for discrimination. Again, statistics are relevant at this pretext stage as well.

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[8] All occupants of the "women's" jobs—women *and men*—are entitled to the benefit of the wage rate adjustment.

[9] See, e.g., IUE v. Westinghouse, 631 F.2d 1094 (3d Cir. 1980), *cert. denied*, 452 U.S. 967 (1981), in which the court noted that "[T]he Supreme Court. . .refer[s] to discrimination on the basis of race, religion, sex or national origin as if they are equally nefarious and equally prohibited." 631 F.2d at 1100. *See also*, Los Angeles Department of Water & Power v. Manhart, 435 U.S. 702, 709 (1978); Dothard v. Rawlinson, 433 U.S. 321, 329 (1977); AFSCME v. State of Washington, 33 FEP Cases 808, 825 n.22 (W.D. Wash. 1983).

[10] Sec. 703(a)(1) provides that: "it shall be an unlawful employment practice for an employer. . .to. . .discriminate against any individual with respect to his compensation, terms, conditions or privileges of employment, because of. . .race, color, religion, sex, or national origin. . . ."

[11] McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973).

[12] The unifying theme with respect to all such evidence is that it reflects a discriminatory "motive." As the Court noted in Int'l Bhd. of Teamsters v. United States, 431 U.S. 324 (1977): "Proof of discriminatory motive is critical, although it can in some situations be *inferred* from the mere fact of differences in treatment." 431 U.S. at 335 n.15 [emphasis added].

[13] 431 U.S. 339–40 and n.20.

The alternative mode of proof under Title VII is to demonstrate that a facially neutral practice of the defendant has a disparate impact on members of the plaintiff's class.[15] This disparate impact theory is most often applied to claims under section 703(a)(2) though some courts apply it under section 703(a)(1) as well.[16] The plaintiff's prima facie case under the impact theory is established solely through the use of statistics reflecting the disproportionate effect of a practice on the plaintiff's class. These statistics, of course, must be sufficiently refined to be meaningful. Assuming plaintiffs make this showing, however, courts have not hesitated to impose on the defendant a heightened burden of proving that its practice is motivated by job-related business necessity.

The rationale underlying the disparate impact theory, and its corresponding burdens of proof, has an intuitive logic about it. If an employment practice is not actually job related, then women or minorities should not be disproportionately burdened by the denial of employment opportunities and benefits because of factors peculiarly affecting them and over which they have no control. For example, in the paradigm disparate impact case, *Griggs v. Duke Power Company*, the Court refused to sanction nonjob-related testing and educational requirements where their effect was to deny employment opportunities to many otherwise qualified blacks who, throughout their lives, have been the victims of state-supported and state-imposed discriminatory educational systems. Similarly, in *Dothard v. Rawlinson*, the Court barred the State of Alabama from imposing height and weight requirements for prison guard positions, where their effect was to exclude women disproportionately from consideration for employment; nearly half of the female population of the State was disqualified merely by virtue of the height and weight standard, compared to only 1 percent of the male population.

Both the disparate treatment and disparate impact theories have been applied in wage discrimination cases. These cases shed some light on the type of evidence that is relevant in proving wage discrimination claims.

"Disparate Treatment" Wage Discrimination Claims

The majority of the wage discrimination cases decided in the past few years have proceeded under the disparate treatment theory. Preeminent among these, of course, are *Gunther v. County of Washington* and *IUE v. Westinghouse*. In both of these, there was evidence from which the courts could infer intentional discrimination in establishing wage rates for women's jobs.

In *Gunther*, the female plaintiffs—jail matrons—alleged that the county had undertaken its own objective evaluation of the worth of their jobs compared to the male position of "guard" and determined that they should be compensated at a rate of 95 percent of the male rate. Notwithstanding that determination, the county set the female wage rate at only 70 percent of the male rate. The plaintiffs alleged that this depression of the wage rate for matrons' jobs was the result of intentional, sex-based wage discrimination.

Similarly, in *IUE v. Westinghouse*, the company in the late 1930s had established a job evaluation system for the purpose of standardizing wage rates throughout their plants. Male jobs with the same job evaluation scores as the female jobs were assigned to parallel labor grades, numbered 1 through 5. However, the pay for the female job with the highest job evaluation score was less than the pay of the male job (common labor) with the lowest job evaluation score.[17] After Title VII became effective, the explicitly separate male and female scales were abolished and the classification lines merged. However, the *women's jobs* were placed at the bottom of the unified classification line, *in labor grades 1 through 5.* All of the *male jobs* were classified in *labor grades 6 or above.* As a result, the wage differential first established in 1940 was perpetuated, and all men—regardless of the position they occupied—were paid more than all women (e.g., the wage rate for the male job with the lowest point value was greater than the wage rate for the female job with the highest point value).[18]

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[14] 450 U.S. 238 (1981).

[15] The Supreme Court's decision in Griggs v. Duke Power Co., 401 U.S. 424 (1971), was the first enunciation of this theory. Writing for a *unanimous* Court, Chief Justice Burger stressed that Title VII: "may not provide equality of opportunity only in the sense of the fabled offer of milk to the stork and the fox. . . .The Act proscribes not only overt discrimination, but also practices that are fair in form, but discriminatory in operation. The touchstone is business necessity. If an employment practice which operates to exclude Negroes cannot be shown to be related to job performance, the practice is prohibited." 401 U.S. at 431.

[16] Sec. 703(a)(2) makes it unlawful for employers to: "limit, segregate, or classify. . .employees. . .in any way which would deprive. . .individual[s] of employment opportunities or otherwise adversely affect [their] status as employees because of. . .race. . .[or] sex. . . ." The Ninth Circuit has applied the disparate impact analysis to claims under sec. 703(a)(1) as well. See, Wambheim v. J.C. Penney Co., 705 F.2d 1492 (9th Cir. 1983); Bonilla v. Oakland Scavenger Co., 697 F.2d 1293 (9th Cir. 1982).

Gunther and *Westinghouse* present somewhat different factual constellations. In *Gunther,* the jobs involved shared a common core of responsibilities, though not enough to render them substantially equal under the Equal Pay Act. By contrast, the women's and men's jobs in *Westinghouse* were entirely different. Yet in neither case was the degree of similarity of the men's and women's jobs considered relevant. Rather, what was relevant was the fact that the employer paid the women's jobs less than it paid the men's jobs that the employer determined had the same number of job evaluation points, i.e., the composite of skill, effort, responsibility, and working conditions. It was this apparent sex-based deviation from the results of job evaluation and market surveys to which the courts attached evidentiary significance in *Gunther* and *IUE v. Westinghouse.* And the courts indicated that this deviation—falling along *pronounced sex lines*—provided that magical element from which an inference of discriminatory intent could be inferred.[19] Job evaluation, in conjunction with other proofs, has played a useful role in other wage discrimination cases.[20] But the courts have also held that a prior job evaluation study is not an essential ingredient for a finding of discrimination and that other traditional means of proving discrimination are equally competent to prove sex-based discrimination.

Discriminatory Job Assignments, Classifications, or Other Practices Resulting in Wage Discrimination: A showing of sex discrimination in the administration of various aspects of the employment relationship leads to an inference of sex-based wage discrimination. *Taylor v. Charley Brothers*[21] is a paradigm case reflecting this. In that case, the court found that the company had engaged in numerous sexually discriminatory practices, including the maintenance of sex-segregated job classifications; discriminatory asignments of women to "women's" jobs and men to "men's" jobs; a pattern and practice of classifying women employees as "temporary" or "part time" for disproportionately long periods of time, resulting in less company seniority for women initially hired at the same time as men; and violations of the Equal Pay Act.[22] Based on this overwhelming evidence of sex discrimination in virtually every aspect of employment, the court inferred the existence of intentional sex discrimination in the establishment of wage rates for the women's jobs as well.

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[17] The employer's industrial relations manual blatantly and explicitly justified paying women less than men for jobs that were different, but that required a composite of equal skill, effort, responsibility, and working conditions: "because of the more transient character of the service of the [women], the relative shortness of their activity in industry, the differences in environment required, the extra services that must be provided, overtime limitations [under State protective laws], and the general sociological factors not requiring discussion herein." *Westinghouse Industrial Relations Manual: Wage Administration,* Nov. 1, 1938, and Feb. 1, 1938, cited in Brief for Appellants, app. 110–62, at 158. IUE v. Westinghouse, 631 F.2d 1094 (3d Cir. 1980).

[18] For a more complete discussion of wage discrimination cases at Westinghouse and General Electric, practices that were *and are* typical of virtually every employer that hired and segregated women, see *Women, Work and Wages,* National Academy of Sciences, pp. 56–60, Newman and Vonhof, "'Separate But Equal': Job Segregation and Pay Equity in the Wake of Gunther," *University of Illinois Law Review* (1981), pp. 292–97.

[19] This showing was bolstered by other anecdotal evidence in each case. For example, in *Gunther,* the sheriff testified that he had tried to obtain wage increases for the matrons, but had been repeatedly rebuffed by the county. And in *Westinghouse,* as noted, documentary evidence from the company's personnel manuals constituted an admission of past, intentional, sex-based wage discrimination.

[20] See section below on "The Use of Job Evaluation Results in Proving Wage Discrimination."

[21] 25 FEP Cases 602 (W.D. Pa. 1981). In IUE v. Westinghouse, there was also evidence of initial assignment discrimination and intentional sex segregation of the work force. Indeed, intentional, employer-caused, sex-based segregation has always been the norm in American workplaces. Sex segregation and wage discrimination go hand in glove. The same forces that cause sex segregation also contribute to and cause sex-based wage discrimination.

[22] Evidence of Equal Pay Act violations is extremely compelling evidence of wage discrimination in other women's jobs. Where men and women are performing virtually identical jobs and none of the EPA's affirmative defenses applies, and an employer pays women less than men when they are performing precisely the same job, then surely he will pay women less, because of their sex, when their jobs differ. There could hardly be clearer evidence that it is the sex of the worker, and not the work, that the employer values (or devalues).

Similarly, in *Brooks v. Ashtabula County Welfare Department,*[23] the court relied on evidence showing sex-based denials of promotions and the reservation of higher paying jobs for men to infer that pay differentials between comparable male and female employees were the result of intentional, sex-based wage discrimination. In *Lanegan-Grimm v. Library Association of Portland,*[24] the court found that the plaintiff female bookmobile driver/clerk had proved her case of wage discrimination by evidence showing a history of paying male delivery truckdrivers (to whom she compared her position) more; sex-based job segregation; that the jobs of bookmobile driver/clerk and truckdriver were sufficiently similar to warrant an inference that the difference in their compensation could only be the result of intentional sex discrimination; and that the highest paid female bookmobile driver was paid less than the lowest paid male delivery truckdriver.

In *Carpenter v. Stephen F. Austin State University,*[25] the plaintiffs, a class of women and minority employees, proved that they had been unlawfully channeled into lower paying positions through initial assignment discrimination and thereafter were subjected to discrimination in promotion, transfers, and pay. Although the Fifth Circuit held that the district court had applied the wrong standard to the plaintiffs' claims,[26] it nonetheless affirmed the relevance of the plaintiffs' evidence demonstrating that discretion and subjectivity in the process of job ranking (i.e., pay determination) and initial assignment resulted in race- and sex-based wage discrimination.

Finally, in *Gerlach v. Michigan Bell Telephone Company,*[27] the court held that the plaintiffs' claims of sex-based classification, resulting in lower wage rates for women in the affected category, stated a cause of action under Title VII. The plaintiffs, female engineering layout clerks, alleged that their positions were comparable to the male positions of plant assigner and estimate assigner, but that they had been *classified as clericals* because their job was predominantly female. So classified, their pay was less than it would have been had sex not been a factor in the classification decision. Interestingly, the complaint in *Gerlach* alleged two separate wage discrimination theories: first, the classification claim discussed above and second, a "comparable worth" theory of discrimination. The court dismissed the latter cause of action, finding that it did not state a claim under Title VII. But the classification claim stands and will be tried in the fall of 1984. In the event plaintiffs are able to prove their allegations of discriminatory classification, the remedy will be reclassification with a corresponding upward adjustment in the wage rate for the engineering layout clerk position—essentially the same remedy for the so-called "comparable worth" claim. *Gerlach* is a good example of how the comparable worth terminology is more often than not simply a shorthand manner of referring to a variety of sexually discriminatory practices that result in lower wages for women workers.[28]

These cases were all decided under Title VII. However, a recent decision by the First Circuit Court of Appeals demonstrates that similar claims of sex-based wage discrimination, utilizing similar types of proof, will be prosecuted successfully under alternative legal theories as well. In *Stathos v. Bowden,*[29] the plaintiffs' claims of wage discrimination alleged violations of 42 U.S.C. secs. 1983 and 1985 (the post-Civil War civil rights statutes). Relying on evidence that overwhelmingly reflected intentional sex discrimination (e.g., occupational segregation; sustained refusal to upgrade the status and salary of two women, despite the objective comparability of their jobs to those of several higher paid men; explicit and overt sexist statements by responsible officials; and postlawsuit retaliation), the court upheld jury findings that the Peabody Municipal Lighting Commission and individual commissioners were guilty of intentional, sex-based wage discrimination against the two female plaintiffs. In so holding, the court sustained awards of $60,000 to each plaintiff—$30,000 to $35,000 in backpay plus an additional amount for pain and suffering. Thus, unlike Title VII which is limited in monetary relief to backpay (and wage rate adjustments and/or frontpay), suits under alternative statutory vehicles carry with them the potential for substantially greater monetary awards, including damages agaist individuals who are personally responsible for perpetrating discrimination.

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[23] 535 F. Supp. 366, 377–78 (N.D. Ohio 1981).

[24] 560 F. Supp. 486 (D. Ore. 1983).

[25] 706 F.2d 608 (5th Cir. 1983).

[26] The court held that the disparate treatment, rather than the disparate impact, theory should have been applied and remanded the case to the district court for taking evidence of discriminatory intent.

[27] 501 F. Supp. 1300 (E.D. Mich. 1980).

[28] The Equal Employment Opportunity Commission issued a cause finding in *Gerlach* in 1975; however, it has refused to become involved in this suit. Indeed, in abrogation of its statutory mandate, the EEOC has basically stopped enforcing the law in the area of wage discrimination altogether. As the watchdog for civil rights enforcement, this Commission should insist that the EEOC, as well as the Departments of Justice and Labor, execute their responsibilities under Title VII, by fully enforcing its prohibitions against sex-based wage discrimination. See Gerlach v. Michigan Bell Tel. Co., EEOC Charge No. TDT 3–8520, Sept. 12, 1975. See also *Thirty-Ninth Report by the Committee on Government Operations.*

[29] 34 FEP Cases 142 (1984).

All of these cases demonstrate that traditional indicia of discrimination will be probative in the wage discrimination context as well.

Statistical Proof of Sex-Based Wage Discrimination: Statistics are used either by themselves or in conjunction with other types of evidence to prove sex-based wage discrimination. In *Melani v. Board of Higher Education,*[30] the plaintiffs—women (employees and applicants) in the professional instructional staff of City University of New York (CUNY)—utilized a series of statistical tests to show that their salaries, as a class, were lower than those of comparable males. For example, in one study a multiple regression analysis controlling for 98 independent variables that might affect salary level was conducted. It revealed that, on the average, women were paid $1,600–$1,800 less than comparable men. Since all other explanations for the differential had been eliminated, the court attributed the difference in pay to discrimination. An additional regression analysis that controlled for date of hire showed that women with skills comparable to those of male comparators were overrepresented in lower ranked positions and underrepresented in those with higher ranks.[31] As a result, their salaries were lower. The plaintiffs bolstered these showings with further statistical evidence of preact, sex-based wage disparities among comparable women and men. On the basis of these statistics—termed "gross" by the court—the plaintiffs established their prima facie case, which CUNY failed to rebut.

The *Melani* court's approach and decision is plainly founded on a straightforward application of Title VII principles. To paraphrase the Supreme Court in *Teamsters:*

> Statistics showing racial. . .[or sexual] imbalance are probative. . .because such imbalance is often a telltale sign of purposeful discrimination; absent explanation, it is ordinarily to be expected that nondiscriminatory [salary]. . .practices will in time result in a [salary pattern] more or less representative. . . .Evidence of longlasting and gross disparity between [comparable women and men] thus may be significant.
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> * * *
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> *"In many cases* the *only available* avenue of *proof is* the use of racial [and sexual] *statistics to uncover clandestine and covert discrimination."* [citations omitted] [emphasis added][32]

Thus, fully cognizant of what *Title VII requires* in the area of sex-based wage discrimination and the significance of statistical proof, the *Melani* court did not break new ground; it simply interpreted and enforced existing law.

Statistics have also been used to demonstrate *sex*-based deviation from expected compensation levels, as proof of a Title VII violation. For example, in *Wilkins v. University of Houston,*[33] the court found that women in the academic division of the professional and administrative staff were discriminatorily underpaid. The court's holding relied exclusively on evidence that showed statistically significant deviation, along sex lines, between expected and actual salary in the university's own pay plan. The evidence showed:

- Of a total of 68 employees (35 men and 33 women), 21 were paid less than the minimum for their level, as established by the university's pay plan. Eighteen of the 21 underpaid employees were women.
- Only four employees were paid more than the maximum prescribed for their level, and all of these were men.
- The jobs of 5 of the 18 "underpaid" women were downgraded to justify the existing underpayment.[34]
- The jobs of two additional women, within their proper wage level, were also downgraded.

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[30] 31 FEP Cases 648 (S.D.N.Y. 1983).

[31] This evidence would also be probative of initial assignment discrimination, though the plaintiffs apparently did not press that theory and the court, therefore, did not so rule.

[32] 431 U.S. 339–40, n.20.

[33] 654 F.2d 388 (5th Cir. 1981), *vacated and remanded,* 103 S.Ct. 34 (1982), *aff'd on rem.,* 659 F.2d 134 (1983).

[34] The university admitted that reclassification downward in response to a finding of underpayment was improper because placement of a position within a level in the pay plan is based on the job itself and not its existing rate of pay.

- None of the male jobs—even two that were above the maximum for their level—was downgraded.

The court deemed this evidence sufficient to prove a pattern and practice of sex-based wage discrimination.

Such evidence is relevant in individual cases, too. In *Heagney v. University of Washington*,[35] the plaintiff alleged that she had been discriminatorily underpaid because of her sex. To bolster her claim and also to demonstrate pretext, she relied on the findings of a study performed subsequent to her discharge which revealed that 39.2 percent of exempt female employees, compared to only 19.8 percent of similar male employees, were paid less than expected on the university's salary curve. By contrast, 14.5 percent of the males, compared to only 4.6 percent of the females, were paid more than expected. The Ninth Circuit held that this statistical evidence was relevant to the issue of wage discrimination, both for purposes of establishing a prima facie case and for demonstrating pretext.

Melanie, *Wilkins*, and *Heagney* all demonstrate the propriety of using statistics to prove wage discrimination. Again, this is garden variety Title VII proof.

The Use of Job Evaluation Results in Proving Wage Discrimination: Finally, sex-based deviation from job evaluation results in the establishment of wage rates is probative of intentional discrimination. Analytically, the role of job evaluation in proving wage discrimination claims is similar to the role of seniority or employee selection devices in other Title VII contexts. All three form an objective backdrop against which employment-related decisions may be assessed to determine whether prohibited discrimination has occurred. By way of example: if more senior blacks are routinely passed over for advancement, while less senior whites obtain promotions, courts infer race discrimination because on the basis of an objective criterion, i.e., seniority, blacks are treated less favorably than whites. Similarly, if blacks who satisfy certain employee selection criteria are denied employment opportunities while whites who do not satisfy those criteria (or do not fare as well on them) obtain those opportunities, courts again infer discrimination. By the same token, where on the basis of an objective job measure—i.e., skill, effort, and responsibility—women's jobs that are consistently rated equal to or higher than those of men nonetheless carry a lower pay rate, it is reasonable to infer wage discrimination, thereby shifting to the employer the burden of justifying that differential.

The propriety of using job evaluation results in this manner is even more compelling in light of the fact that job evaluation is a tool created, and pushed, by and for employers. For decades, it was touted by employers—often with strong opposition from workers—as the preeminent means to measure skill, effort, and responsibility of different jobs.

As early as the 1940s, the War Labor Board relied on job evaluation instruments used by the employers to compare dissimilar jobs and determine wage rates, all without employer opposition.[36] And indeed, so wedded were employers to the reliability of job evaluation that during debates on the Equal Pay Act (EPA)[37] they lobbied hard to assure that standard job evaluation measures of skill, effort, responsibility, and working conditions would be the bases for defending against claims under the EPA. The Supreme Court noted this in *Corning Glass Works v. Brennan*,[38] emphasizing that employer representatives "repeatedly urged that the bill be amended to include an exception for job classification systems, or otherwise to incorporate the language of job evaluation into the bill."[39] And the Court found that Congress had acted responsively: "Congress' intent, as manifested in this history, was to use these terms to incorporate into the new Federal Act the well-defined and well-accepted principles of job evaluation so as to ensure that wage differentials based upon bona fide job evaluation plans would be outside the purview of the Act."[40] *It is ironic,* to say the least, *that the same employers who 20 years ago trumpeted the role of job evaluation in setting wages (as part of their organized opposition to the Equal Pay Act) today so unabashedly and eagerly decry its relevance to Title VII wage discrimination cases.*

Against this backdrop, it is clear that job evaluation results are useful, competent, and relevant evidence in proving wage discrimination claims. And they have been used successfully. In *Briggs v. City of Madison*,[41] the plaintiff public health nurses, all of whom were women, alleged that they were underpaid in comparison to city sanitarians, all of whom were men. The court viewed as the linchpin of the plaintiffs' prima facie case their showing that the "worth" of their jobs was equal to or greater than that of the male sanitarian workers.[42] In the court's view, this objective evidence of job comparability was a significant component of the plaintiffs' prima facie case because it rested upon two logical premises: first, that by the employer's own measuring stick, the jobs were of comparable value; and second, that absent explanation, jobs of comparable value would normally be compensated at the same level. The court said:

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[35] 642 F.2d 1157 (9th Cir. 1981).

[36] See Newman and Vonhof, "'Separate But Equal': Job Segregation and Pay Equity in the Wake of Gunther."

[37] 29 U.S.C. 206(d).

[38] 417 U.S. 188 (1974).

[39] 417 U.S. at 200.

[40] 417 U.S. at 201.

[41] 506 F. Supp. 435 (W.D. Wis. 1982).

> Although other factors may enter into the compensation determination, it is the factors of skill, effort, responsibility and working conditions that are most commonly determinative of the wage rate. By eliminating these factors in their prima facie case as an explanation for the differential in wage rates plaintiffs have eliminated the most common defense to a pay discrimination case brought pursuant to Title VII.
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> [I]ndependent proof of intentional employer discrimination is not required of the plaintiff at this prima facie stage. It is sufficient if the probability of intentional discrimination can be inferred from the showing, as is true in this case.[43]

Also, in *Connecticut Employees Association v. State of Connecticut,*[44] the court held that evidence of sex-based deviation between evaluation points and wage rates was relevant to the issue of intentional discrimination. These cases make clear that employers' sex-based deviations from job evaluation results in establishing wage rates is probative (though not essential) evidence of wage discrimination. The failure to attach significance to such evidence, an accepted practice under the Equal Pay Act, would be a radical departure from sound legal principles governing proof of employment discrimination.

All of these cases demonstrate that wage discrimination is proved under the disparate treatment theory by precisely the same type of evidence utilized in other Title VII contexts. Whether or not the jobs performed by the women and men are identical, substantially similar, somewhat similar, or totally dissimilar is simply irrelevant to the issue of wage discrimination. Rather, where plaintiffs allege that their employers have violated Title VII in the wage-setting process, they may prove their cases through reliance on statistics, evidence of other discriminatory practices, or the discriminatory application of job evaluation results. This is simply what Title VII *already* requires—no more and no less.

"Disparate Impact" Wage Discrimination Cases

At present, wage discrimination cases have proceeded for the most part under the disparate treatment theory. However, in appropriate situations, the disparate impact theory has also been applied to the analysis of wage discrimination claims.

Disparate impact analysis has been applied to race-based wage discrimination claims. In *Kirby v. Colony Furniture Company,*[45] the black plaintiffs alleged that the company's use of a "leadman" classification resulted in wage discrimination against them, since whites were disproportionately represented in that classification, the additional duties required of "leadmen" were insignificant, and the wage disparity was substantial. The Eighth Circuit Court of Appeals agreed that the plaintiffs' claims stated a Title VII cause of action for wage discrimination under the disparate impact theory.

Similarly, the Ninth Circuit has applied the disparate impact analysis to claims of sex-based wage discrimination. In *Wambheim v. J.C. Penney,*[46] the court agreed with the plaintiffs that Penney's "head-of-household" rule for entitlement to dependent coverage under the company's medical plan had a disparate impact on female employees.[47] In related fashion, the court held, in *Kouba v. Allstate Insurance Company*[48] (a Title VII equal pay case), that because the company's use of a "prior salary" criterion for new agents resulted in lower average minimums for women than men, the company had to prove "an acceptable business reason" for its use. *(Kouba* is currently in trial on the merits.) In a somewhat similar case, *Neely v. MARTA,*[49] a district court applied the disparate impact analysis to a company rule that required prior management approval for starting salaries of new employees that exceeded their prior salaries by more than 10 percent. Because of women's traditionally lower salaries, the court found that the rule had a disparate impact on women, thereby violating Title VII's prohibitions against wage discrimination.

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[42] The court found, however, on the basis of the facts presented, that the defendant articulated a legitimate nondiscriminatory reason for the pay differential that was not disproved by the plaintiff.

[43] 506 F. Supp. 445–46.

[44] 31 FEP Cases 191 (D. Conn. 1983).

[45] 613 F.2d 696 (8th Cir. 1978).

[46] 705 F.2d 1492 (9th Cir. 1983).

[47] The court found, however, that the company was able to demonstrate a business necessity for its practice.

[48] 691 F.2d 873 (9th Cir. 1982).

[49] 24 FEP Cases 1610 (N.D. Ga. 1980), *aff'd,* 641 F.2d 877 (5th Cir. 1981).

Kirby, Wambheim, Kouba, and *Neeley* are standard disparate impact cases. They firmly demonstrate the soundness of applying disparate impact analysis to wage discrimination claims, where it is the appropriate vehicle. This approach will undoubtedly enjoy greater use in the future. And indeed, in *AFSCME v. Washington State,* Judge Tanner found that the State's compensation practices constituted sex-based disparate treatment and disparate impact.

AFSCME v. Washington State

The recent *AFSCME v. Washington State* decision unified a number of the threads first stitched in earlier wage discrimination proceedings. On the basis of the evidence presented, the *Washington State* court found the proof of wage discrimination "overwhelming." However, Washington State is not alone. Its compensation practices are typical of virtually every employer in this country, both private and public, including the Federal Government. Thus, *Washington State* is an important milepost in breaking the back of sex-based wage discrimination in this country.

In *Washington State,* the evidence of sex-based wage discrimination included, but was not limited to, the following:

Statistics: Expert evidence showed a statistically significant inverse correlation between sex and salary. When jobs were controlled for skill, effort, responsibility, and working conditions, so that only jobs of substantially equal value were compared, the monthly salary of the classification decreased by $4.51 for every 1 percent increase in the female population of the classification. A 100 percent female job is paid, on average, $5,400 a year less than a 100 percent male job of equivalent value. The chances of such a relationship occurring by chance are less than 1 in 10,000.

Occupational Segregation: The evidence proved that the State had deliberately segregated on the basis of sex. The State placed classified ads in "male only" and "female only" columns until the newspapers stopped accepting them because they violated Title VII. The State also used classification specifications that indicated a preference for male or female employees. Finally, protective labor laws resulted in exclusion of women from some occupations.

Equal Pay Violations: The evidence revealed disparities in wages between closely related but segregated jobs such as barber and beautician, institution counselor and classification counselor, house parent and group life counselor, and duplicating service supervisor and data processing supervisor. The predominantly male jobs in each set were consistently paid more than the predominantly female jobs requiring similar duties.

Wage Disparities in Jobs Requiring Comparable Skill Levels: Regardless of entry-level requirements for jobs, male jobs at all levels paid more than female jobs with the same requirements. For example, predominantly male, entry-level jobs requiring no high school were paid an average of 16 percent more than predominantly female, entry-level jobs requiring no high school. Predominantly male, entry-level jobs requiring a high school degree were paid an average of 22 percent more than predominantly female, entry-level jobs requiring high school. Predominantly male, entry-level jobs requiring 1 year of business school were paid an average of 19 percent more than predominantly female, entry-level jobs requiring 1 year of college. Predominantly male, entry-level jobs requiring 2 years of business college were paid an average of 13 percent more than predominantly female, entry-level jobs requiring 2 years of business college.

Sex-Based Deviations from Job Evaluation Measures in Setting Wage Rates: A series of job evaluation studies performed by the State in 1974 and subsequently updated reflected a 20 percent across-the-board disparity between predominantly male and predominantly female jobs that require an equivalent composite of skill, effort, responsibility, and working conditions ("women's" jobs were paid 20 percent less than "men's" jobs; "male" jobs were paid 25 percent more than "female" jobs). By 1983 the disparity had increased and "male" jobs were paid 32 percent more than "women's" jobs. Although the State updated these studies in 1975, 1976, 1978, 1980, and 1982, it took no action to correct the discrimination. Only on the eve of trial did the State act, passing a bill calling for a 10-year phase-in to correct its discriminatory wage structure.

Admissions by Top Officials of Discriminatory Practices: Successive Governors admitted that the job evaluation studies performed by the State showed discrimination in compensation. Reports by the personnel boards, the Governor's affirmative action committee, and others documented discrimination in a variety of personnel practices.

Discrimination in Classification and Other Aspects Re Administration of the State's Compensation System: For example, the campus police assistant position, which had to be filled by a woman, was indexed to the clerical benchmark instead of the security benchmark, a male classification. Moreover, reclassification actions generally favored male employees over female employees.

Judge Tanner found on the basis of this and similar evidence that there was overwhelming evidence of "historical discrimination against women in employment in the State of Washington, and that discrimination has been, and is, manifested by direct, overt and institutionalized discrimination."[50] Moreover, he specifically found the State had acted in bad faith and had violated Title VII by engaging in both disparate treatment (intentional discrimination) and disparate impact. He ordered both backpay and wage rate adjustment to remedy the State's discrimination. As the job evaluation evidence presented to the court covered only about 3 percent of the jobs, the court ordered the State to conduct additional job evaluations of all predominantly female job classifications not previously evaluated (approximately 500 classifications) to determine the appropriate remedy. The State has now appealed the *AFSCME* decision, and argument before the Ninth Circuit is likely to be held in early 1985. Since Judge Tanner's decision merely applies standard and well-established Title VII principles, there is every reason to believe that it will hold up on appeal.[51]

In addition to *Washington State,* AFSCME has recently filed suit against Nassau County, New York, in which similar allegations of discrimination in compensation and other terms and conditions of employment is alleged. In this case, however, the defendant has not conducted job evaluation studies like those in Washington State.[52] There are also numerous charges of sex-based wage discrimination, against both public and private employers, pending in Equal Employment Opportunity Commission offices nationwide and in headquarters.[53] Future litigation in any of these cases is a real possibility; *Washington State* is just the beginning.

Sex-Based Wage Discrimination Is Indefensible

With the heightened interest in sex-based wage discrimination that has followed in the wake of the *AFSCME v. State of Washington* decision, arguments for perpetuating wage discrimination are being advanced with an unparalleled fervor and intensity. Principal among these are the notion that the "free market" sets wage rates and should not be disturbed and that the "costs" of correcting discrimination are too substantial for the society to bear.[54] At best these arguments were appropriate 20 years ago, prior to the enactment of Title VII. They cannot now serve as valid arguments for breaking the law and cannot be accepted in a society that advocates compliance with law. Moreover, these arguments are morally bankrupt, and we as a Nation cannot afford to allow them to be used to justify the perpetuation of discrimination.

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[50] No attempt is made here to outline all of the evidence showing that the disparate wage rates resulted from discrimination. What is significant, however, is that the court, on the basis of the evidence presented, and its observation of the demeanor of the witnesses, concluded that the disparate wage rates resulted from segregation and other forms of discrimination.

[51] Although the State appealed the district court's finding of a violation, the court of appeals denied the State's request for a stay of the backpay proceedings, and several hundred job evaluations of predominantly female jobs have been conducted in the past few months.

[52] Although job evaluation evidence may be presented by plaintiffs or defendants, such evidence is not critical to a finding of wage discrimination. Indeed, as was done in *Washington State,* a court after determining that the wage rates are discriminatory may order that a job evaluation be conducted in order to determine the appropriate remedy.

[53] EEOC has simply refused to act on these charges, notwithstanding a 1981 policy statement that sets forth procedures for "investigating" and "evaluating" sex-based wage discrimination. In relevant part, the memorandum also states:

> the [*Gunther*] decision brings sex-based wage discrimination claims into conformity. . .with the Commission's consistently held position in this regard when the charge is based on race or national origin.
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> The female telephone operator. . .could compare herself. . .to a male who works in an entirely different job classification (i.e., a male elevator operator).
>
> . . .Title VII principles apply to the processing and investigating of wage discrimination charges regardless of whether they are based on national origin, race, sex, color, or religion. [Memorandum of Aug. 25, 1981.]

It should be noted that this earlier Commission memorandum was addressed to the "Processing of Sex Based Wage Discrimination Charges" and nowhere refers to the processing of "comparable worth" charges. Thus, any purported excuse for failure to process the hundreds of pending charges on the asserted basis that they all are comparable worth charges is nothing more than that: an excuse. See *Thirty-Ninth Report by the Committee on Government Operations,* which concludes that the basic issue "is singly one of implementing a court decision [*Gunther*]" and that the EEOC has failed to do so.

[54] Other objections to wage discrimination include the "apples and oranges" argument, i.e., that dissimilar jobs cannot be compared; and the "blame the victim" argument, i.e., that women must change jobs if they want to be paid a nondiscriminatory wage. Neither argument has merit. As discussed above, dissimilar

The Market Is No Justification to Sex-Based Wage Discrimination

Imagine yourself at your breakfast table tomorrow morning, opening your paper to read the following headline:

Supreme Court Says High Black Unemployment Rate Justifies Lower Wages for Black Workers!

Reading on, you find that the Court has accepted employer arguments that the "supply" of black labor far exceeds the "demand" for the meager number of jobs into which they are segregated. Accordingly, the employer argues and the Court agrees, it makes perfect business sense to take full advantage of this tragic situation, and there is no Title VII violation.

Everyone in this room would react with a sense of disbelief, shock, and outrage at that news. Why, then, is there not similar outrage at the notion that the market for women workers should determine their wage rates, especially in view of the fact that it is in large measure past and present employer discrimination—in the form of sex-based refusals to hire, assignment and classification decisions, failures to promote, and discriminatory wage rates—that has created this tragic market situation for women?[55]

The notion that the "market rate" for women workers is a defense to Equal Pay Act violations was flatly rejected by the Supreme Court 10 years ago. In *Corning Glass,*[56] the Court stressed that:

> The differential [between male and female inspector rates] arose simply because men would not work at the low rates paid women inspectors, and it reflected a job market in which Corning could pay women less than men for the same work. *That the company took advantage of such a situation may be understandable as a matter of economics, but its differential nevertheless became illegal once Congress enacted into law the principle of equal pay for equal work.* [emphasis added][57]

Every court that has addressed the question of whether the market is a defense to sex-based wage disparities under the Equal Pay Act has answered with a firm and emphatic "no." In *Laffey v. Northwest Airlines,* for example, the court stated: "This evidence leads convincingly to the conclusion that the contrast in pay is a consequence of the historical willingness of women to accept inferior financial awards for equivalent work—precisely the outmoded practice which the Equal Pay Act sought to eradicate."[58] In *Hodgson v. Brookhaven General Hospital,* the court said: "Clearly the fact that the employer's bargaining power is greater with respect to women than with respect to men is not the kind of factor [other than sex] Congress had in mind."[59] In *Brennan v. City Stores,* the court stated: "There is no excuse for hiring saleswomen and seamstresses at less rates [than males] simply because the market will bear it."[60] And in *Marshall v. Georgia Southwestern College,* the court noted: "the defendants contend that. . .each professor or instructor was paid what he or she was worth in the market place of higher education. . . .This market force defense is not the kind of factor included within the catch-all exception in the Act, especially when it appears that women have been willing to accept lower salaries than males."[61]

If the market is no defense to sex-based wage discrimination claims under the Equal Pay Act, why should it be a defense to such claims under Title VII? There is no ethical or legal reason for prohibiting the defense in one context and permitting it in the other. This conclusion is legally compelled by *Gunther's* teaching that the Bennett amendment makes the Equal Pay Act's four affirmative defenses

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jobs can be compared, have always been compared, and will continue to be compared. More important, the issue in wage discrimination cases is not whether jobs are similar or not, but rather whether the employer has violated the law by discriminating in establishing the female job's wage rate. With respect to the "blame the victim" argument, that similarly is no defense: "That women may theoretically be able to move to jobs in which sex-based compensation practices are not present is *irrelevant* inasmuch as [the act] prohibits discrimination not only in promotions and transfers, but also in compensation." Brief for the United States and the Equal Employment Opportunity Commission as *amicus curiae* in County of Washington v. Gunther, at 10–11, n.5.

[55] Legalized job segregation of women has been standard practice for virtually every employer throughout the United States, at least until the passage of the Civil Rights Act. Indeed, so-called State "protective laws" for women contributed substantially to this sex-segregated work force. Even today, it is common, acceptable practice to speak of men's and women's jobs.

[56] 417 U.S. 188 (1974).

[57] 417 U.S. at 205.

[58] 567 F.2d 429, 451 (D.C. Cir. 1976), *cert. denied,* 434 U.S. 1086, *aff'd,* 642 F.2d 578 (D.C. Cir. 1980).

[59] 436 F.2d 719, 726 (5th Cir. 1970).

[60] 479 F.2d 235 (5th Cir.), *reh'g & reh'g en banc denied,* 481 F.2d 1403 (5th Cir. 1973).

[61] 489 F. Supp 1322, 1330 (M.D. Ga. 1980).

applicable to Title VII wage discrimination claims. It was in the context of one of these—the fourth or "factor other than sex" defense—that the market was first asserted and rejected as a legitimate basis for sex-based wage differentials.[62]

In *Corning Glass*, the Supreme Court established that the market is not a "factor other than sex." Since the Equal Pay Act's affirmative defenses are now incorporated into Title VII, the case law interpreting them, including *Corning Glass*, should also apply. On that basis, there simply is no legal justification for recognizing the "market" as a defense to Title VII wage discrimination cases. And indeed, the Supreme Court recently recognized this in *Norris v. Arizona Governing Committee*,[63] a Title VII, sex-based benefits case, where it affirmed the Ninth Circuit's holding that employers may not maintain discriminatory practices simply because they reflect the marketplace.

Title VII measures whether a particular employer discriminates in the way it treats its employees, not whether an employer treats its employees differently from other employers.

There are important additional reasons for rejecting the market defense in Title VII wage discrimination cases.

First, it is abundantly clear that the market is extremely tainted by both past and *present* sex discrimination. New violations of the EPA and Title VII's prohibitions against wage discrimination crop up each year. These intentionally discriminatory wage rates become part and parcel of the "market" and are then reflected in the current wages of women workers. Similarly, unquestionable past discrimination—e.g., Westinghouse's intentional depression of wage rates for women's jobs—continues to work its invidious effect on women's wages.

Indeed, Westinghouse practices were and are no different from those of the entire electrical manufacturing industry, which to a large extent still segregates its employees and pays women a lower wage than "male," entry-level, unskilled jobs. These wage-setting practices to a large extent also affect other employers and determine "market" rates—market rates that clearly are discriminatory.[64] The Supreme Court has unequivocally indicated that this type of discriminatory milieu may not forever perpetuate itself to the disadvantage of Title VII's protected classes. Writing for the Court in *McDonnell Douglas Corporation v. Green*, Justice Powell stressed that:

> *Griggs* was rightly concerned that childhood deficiencies in the education and background of minority citizens, resulting from forces beyond their control, not be allowed to work a *cumulative and invidious burden* on such citizens *for the remainder of their lives.* [emphasis added][65]

Similarly, past and present discrimination against women workers in "the market" in *every aspect* of employment, coupled with other societal forces that prescribed the proper realm and role for women, has placed them in a position of distinct disadvantage in the labor market.[66] As was true in *Griggs*, these factors should not be allowed to work a "cumulative and invidious burden" on women in the form of lower wages and subsequent lower pensions[67] for the remainder of their lives.[68]

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[62] Barring a market defense to equal pay violations but allowing it in the Title VII context creates an ironic situation indeed. The line separating jobs similar enough to satisfy the Equal Pay Act's requirements from those that are not sufficiently similar (and thus fall within the scope of Title VII alone) is fine and shifting. Thus, in a given case, jobs that are 90 percent similar may satisfy the EPA's requirements while jobs that are 88 percent alike will not. It simply makes no sense—logically or legally—to argue that the "market" is no defense to wage discrimination in the former case, but is a defense in the latter, especially in light of the fact that in this context "the market" merely reflects a variety of societal influences, explicitly including sex discrimination, that have resulted in lower wage rates for women.

[63] 671 F.2d 330 (9th Cir. 1982) at 335, *aff'd in part, rev'd in part,* 51 U.S.L.W. 5243 (1983); the Court states: "Title VII has never been construed to allow an employer to maintain a discriminatory practice merely because it reflects the market place."

[64] The Federal Government also significantly aids and abets this sex-based wage stratification in the market. For years, the Labor Department's Bureau of Labor Statistics has conducted wage surveys to determine prevailing wage rates for various jobs. Even today, the results of these surveys are published by sex (i.e., male rates and female rates). See, e.g., *Area Wage Survey*, U.S. Department of Labor, Bureau of Labor Statistics, March 1983 (bulletin 3020–10, Chicago, Illinois, Metropolitan Area). There is no doubt that these publications reflect and facilitate the maintenance of sex-based wage differentials within the labor market, even where men and women are performing identical jobs.

[65] 411 U.S. at 806.

[66] Although the economists do not all agree as to the amount of sex or race discrimination in the market, the most conservative of the free market economists concede that they cannot explain some of the wage gaps and do not deny that the only explanation for the disparity may be discrimination.

[67] Reputable findings of the nature and incidence of poverty reveal that by the year 2000, more than 50 percent of the people below the poverty level in this country will be elderly women. This startling level of poverty will in no small measure be a direct consequence of current sex-based wage discrimination against working women.

[68] The argument is made that women "voluntarily choose" "inferior" jobs carrying low wage rates. This is akin to the

Second, the manner in which the market is used to determine wage rates is hardly scientific or systematic.[69] Rather, it is a process that is probably more subjective than job evaluation and provides a great deal of leeway for discretionary decisionmaking. As the Fifth Circuit recognized in *Carpenter v. Stephen F. Austin State University,*[70] these elements of subjectivity and discretion in establishing wage rates open the door wide to sex- and race-based discrimination. Indeed, the purported practice of relying on the market to set wage rates is so entirely arbitrary that, in fact, it is more mythical than real.

A few examples from the Washington State survey, reportedly one of the better market surveys, will demonstrate that market surveys can be and are manipulated, that they are intended as a guide, and that employers regularly deviate from the results of the survey.

- For most jobs, the State conducted in-State wage surveys. However, for nearly half the job classifications, the State looked out of State to determine wage rates. This was true even for entry-level unskilled jobs for which there is an excess of supply and to which no notion of a "national market" could conceivably apply. By conducting out-of-State surveys, the State chose largely to ignore the local market in setting wage rates. In many other cases, when the State personnel board was dissatisfied with the results of its survey of a classification, it moved the classification from the out-of-State survey to in-State or vice versa, the effect of which was to achieve higher or lower rates.
- There were two pay systems in the State, one administered by the higher education personnel board and the other by the State personnel board. Each board is independent of the other. The boards were made up of political appointees who generally met 1 day each month. Higher Education paid area rates in excess of statewide rates, with the result that employees in the same classification received different rates of pay. In addition, in approximately 10–20 percent of the jobs surveyed, each of the boards deviated from the survey rates, with the result that precisely identical jobs carried different statewide rates as well as different area rates. The reasons for deviating from the survey were determined separately by each board.
- When faced with the realization that paying market rates for jobs would disrupt historical internal pay relations, the State opted for preserving internal relations and ignored the market. Given historic discrimination against women, the preservation of such historical relationships would appear to be a euphemism for preserving historic discrimination.
- When finally completed, the employer frequently chose to grant an across-the-board increase to all classifications, thus totally ignoring the survey, which regularly showed substantial variance in the amount each classification would receive.
- The State's entire wage structure consistently fell along a two-track line: one for women, one for men. If this is dictated by the market, it can only be because the market itself is divided into the male and the female sector.

Thus, the evidence in Washington State regarding the market showed that reliance on the market was selective at best. Deviation was the norm.

Third, various employer practices result in a distortion of market rates for women's jobs. Thus, for example, despite the notorious and growing shortage of registered nurses in this country, their salaries have not risen appreciably in response to increased demand. Rather than pay nurses more, employers have resorted to overseas recruitment, finding it more profitable to import female labor than to pay in accord with supply and demand.

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suggestion that blacks voluntarily choose to do dirty work. Both are sadly reminiscent of erstwhile claims in support of "freedom of choice" school desegregation plans (which were all dismal failures): that blacks "freely chose" to attend schools of inferior educational quality. Where "choice" is severely circumscribed by available options; where "choosing" the nontraditional path carries with it the very real possibility of societal opprobrium and peer harassment; and where the "freedom to choose" really only means the freedom to start all over, at the bottom, in hostile territory—these "choices" are free only in the most tortured sense of the word.

[69] In some industries, e.g., auto and steel, most but not all production classification workers are paid a national rate, while clerical and other classifications are paid in accordance with local rates. Other industries, such as electrical manufacturing, pay varying rates for production work, throughout the country. (Although the rates differ in each plant of the same employer, the "women's" jobs are always paid less.) Other employers, such as Washington State, survey some rates on the basis of local surveys, others on the basis of a statewide survey, and still others on the basis of a survey of other States, and each of these comparisons changes from time to time, with varying reasons given for the change. It is difficult to fathom how supply and demand affect these wage rates.

[70] 706 F.2d 608 (5th Cir. 1983).

Similarly, despite a nationwide shortage of skilled secretaries, employers in several major cities are alleged to have entered into wage-fixing agreements, thereby assuring continued low salaries for clerical workers.[71] On the other hand, heightened demand for engineers in certain years resulted in substantially higher salaries for them.

Finally, if there is a "free market" at work that sets wage rates without regard to sex, then it clearly works in a bizarre fashion. How else do we explain:

- Consistent and uniform nationwide patterns of sex-based wage disparities between women's and men's jobs? If supply and demand truly determine wage rates, then some women's jobs of equal value to men's would be, nonetheless, paid less while others should be paid more. Instead, there is a fairly consistent 20 percent differential between all male and all female jobs, where equal levels of skill, effort, and responsibility are required. This is precisely the differential that existed between the jobs compared in *IUE v. Westinghouse,* where there could hardly be clearer evidence of intentional sex discrimination in the establishment of wage rates. In *Washington State,* the same disparity existed. This was not the result of a "free market," but rather, discriminatory wage-setting practices that operated in response to employer predilections for sex discrimination.
- Significant wage disparities along sex lines in male and female entry-level *unskilled* jobs, *where there is no shortage of supply of workers?* Is there a shortage of male custodial workers that warrants paying them more than female assembly line workers? Is there a shortage of toll collectors that warrants paying them more than a licensed practical nurse? If male and female entry-level positions require a similar composite of skill, effort, and responsibility, if the jobs are performed under similar working conditions, and if the labor supply for those jobs exceeds the demand, why are male entry-level rates consistently higher than female entry-level rates?
- A pattern whereby males with 3 years of high school earn more than women who have graduated college? Or males with a high school diploma earn more than women with an advanced degree?
- In industrial plant after plant in the country, male common laborers being paid more than women in the most skilled and highest paid female classifications?

In sum, it is appropriate to ask: "WHERE'S THE MARKET?"

In any event, the market is not sacrosanct.

A so-called "free market" does not exist. Congress has chosen to interfere with that market and manifestly has the right to do so. Child labor laws, health laws, minimum wage, overtime and safety laws, collective bargaining, equal pay laws, prevailing rate laws (for government production), etc., etc., all constitute interference with the so-called "free market." There is no question that Congress in this case has decided that discrimination should not be a defense to discrimination! Congress has decided to place a greater priority on ending discrimination than on preserving what at best can be described as a very elusive, imperfect, and distorted labor market.

The Cost of Correcting Discrimination Does Not Justify the Societal and Individual Cost of Discrimination

Employers argue that the cost of correcting wage discrimination is too great and that, therefore, such discrimination should be perpetuated. This argument has been thoroughly rejected. For example, in 1978 when Congress was considering amendments to Title VII to provide that disabilities related to pregnancy and childbirth had to be treated identically with all other disabilities, employers screamed, "But it will cost too much!" Congress rejected these arguments, enacted the Pregnancy Discrimination Act, and employer practices generally fell into line. Remarkably, none of the dire consequences that had been predicted by employers actually occurred.

Similarly, in *Los Angeles Department of Water and Power v. Manhart,*[72] the city argued that the costs of equal treatment in employee retirement plans would be too great and thus that women should continue to make greater contributions to the benefits plan. Rejecting this argument, the Supreme Court stated:

> In essence the Department is arguing that the prima facie showing of discrimination based on evidence of different contributions for the respective sexes is rebutted by its demonstration that there is a like difference in the cost of providing benefits for the respective classes. That argument might prevail if Title VII contained a cost-justification defense comparable to the affirmative defense in a

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[71] See *Hearings Before the United States Equal Employment Opportunity Commission on Job Segregation and Wage Discrimination* (Statement of Ellen Cassedy), 1980, p. 340.

[72] 435 U.S. 702 (1978).

> price discrimination suit. But neither Congress nor the courts have recognized such a defense under Title VII.[73]

And in *Washington State,* Judge Tanner noted: "Defendants' preoccupation with its budget constraints pales when compared with the invidiousness of the ongoing discrimination."[74]

Cost simply—plainly—is no defense to discrimination. The time for such arguments by economists and others concerned with the economy is before legislation is enacted. Now is the time for economists and others to concentrate on how we can best carry out the intent of the law. In any event, Congress dealt with these arguments—finally—when it enacted Title VII. Congress did not put a price tag on correcting discrimination. Nor have the courts.

Conclusion

Less than a month ago, the United States House of Representatives Committee on Government Operations issued a unanimous report in which it concluded that since *Gunther* was decided the EEOC has failed to enforce Title VII's prohibitions against sex-based wage discrimination.[75] The committee admonished EEOC "no longer [to] remove itself from controversy by failing to enforce existing law."[76] Similar conclusions apply with respect to the Departments of Justice and Labor. In short, since 1981 the Federal Government has simply closed shop with respect to law enforcement in the area of sex-based wage discrimination.

This backdrop of nonenforcement presents the classic situation in which this Commission is called upon to exercise its unique role. As the "watchdog" for civil rights, the Commission is obligated to exercise affirmative leadership and moral suasion in seeking to compel the civil rights agencies to enforce their statutory mandates. Governmental nonfeasance in an area of such importance to so many people simply should not be allowed to continue.

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[73] 435 U.S. at 716–17.
[74] 33 FEP Cases at 324.
[75] *Thirty-Ninth Report of the Committee on Government Operations,* p. 10.
[76] Ibid.

Comparable Worth: Legal Perspectives and Precedents

By Robert E. Williams*

Introduction—The Existing Legal Framework

To place the issue of comparable worth in perspective from a legal standpoint, it should be noted at the outset that compensation practices in the United States traditionally have been governed primarily by contractual provisions, not by statutory law or regulations. Apart from the government's brief experiments with wage controls during World War II and again during the early 1970s, wage rates in this country have normally been set through negotiations between employers and individual workers or labor unions rather than being established or approved by some outside regulatory body. Legal regulation of compensation practices has been confined chiefly to the policing of minimum wage and overtime requirements and the enforcement of prevailing area wage standards for certain classes of government contractors. Job evaluation and job pricing, as such, have generally been left open to free market economic forces and collective bargaining.

Our law does not take a completely laissez faire approach to compensation practices, however. A significant limitation, which the law has imposed for the past two decades, is the ban on discrimination in compensation. Thus, while the law still does not dictate or control the procedures and standards to be used in evaluating jobs, it does provide that the sex, race, religion, national origin, and more recently, the age of individual workers may not be taken into account in setting rates of pay.

The specific provisions of the Equal Pay Act of 1963 and Title VII of the Civil Rights Act of 1964 bearing on discrimination in compensation need not be reiterated at length here. To summarize briefly, under the Equal Pay Act, an employer may not pay employees of one sex less than employees of the opposite sex for "equal work"—that is, work of substantially similar content requiring equal skill, effort, and responsibility and performed under similar working conditions—unless one of four "affirmative defenses" is established. The affirmative defenses are that the difference in pay was based on a difference in (1) seniority, (2) merit, (3) quantity or quality of production, or (4) some other "factor other than sex."[1] The Equal Pay Act has been construed by the courts to provide substantial, not just nominal, protection to working women. Thus, their right to equal pay cannot be evaded by drawing overly technical distinctions between jobs or assigning different titles to jobs that are essentially the same.[2]

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* McGuiness and Williams, Washington, D.C.

[1] 29 U.S.C. §206(d)(1).

Title VII guarantees minority workers, as well as women, the right to nondiscriminatory treatment in all aspects of employment, including compensation. This means, among other things that women and minority employees cannot be:

- denied equal pay for equal work;
- intentionally paid differently than male or white workers;
- discriminated against in initial job placements;
- intentionally segregated into certain jobs;
- denied the right to apply for any jobs, particularly higher paying jobs or jobs with greater career advancement potential;
- denied training, transfers, promotions, or any other job opportunities because of their sex, race, etc.; or
- subjected to intentional job evaluation manipulations that downgrade their pay because of their sex or minority status.

Whenever an employer has been shown to have violated these laws, backpay and wage adjustment remedies can be ordered.

Existing law, thus, assures every worker the right to compete on an equal basis for any job he or she desires and, once employed in any job, to be paid on the same basis as any other workers doing substantially equal work under similar conditions.

The Comparable Worth Doctrine

The debate today involves whether the law should be expanded beyond these existing guarantees, through either new legislation or judicial construction, to require compensation based on the doctrine of "comparable worth." Various definitions of comparable worth have been suggested, but the essence of the doctrine is that compensation should be proportional to the intrinsic "worth" or "value" of jobs, as measured on some common scale.

Two unstated premises seem to be implicit in this doctrine. First, it assumes that every job has some intrinsic worth to the employer or to society, separate and apart from the price that can be obtained for it in the labor market. Second, it assumes that some common scale exists on which the relative amounts of this intrinsic worth contained in different jobs can be measured and compared. Proposals to establish comparable worth as a *legal* requirement, moreover, would appear to require yet another assumption—i.e., that the relative amounts of worth in different jobs can be determined with a sufficient degree of *certainty* to satisfy accepted legal standards of proof.

Although the foregoing premises have not been explicitly articulated in judicial opinions discussing comparable worth, it is clear from a review of such decisions that most courts that have considered the doctrine have found it troublesome and unconvincing.

The remainder of this paper will review the growing body of case law dealing with the comparable worth doctrine and its relationship to other theories for proving pay discrimination. The paper begins with a discussion of the *Gunther* decision and its implications for sex-based compensation claims under Title VII. It next summarizes cases that address (1) the viability of pure comparable worth claims; (2) the availability of a "market defense"; and (3) various issues relating to the nature and burden of proof in sex-based pay discrimination cases. A final section discusses the recent ***Washington State*** case and some of the issues that may be raised by its appeal. The paper concludes that, with the exception of the ***Washington State*** decision, most courts that have addressed pay discrimination claims have wisely rejected theories of proof grounded expressly or implicitly on the comparable worth concept, and instead, have properly dealt with such claims under well-established, existing legal doctrine.

Gunther

Prior to the decision of the Supreme Court in *County of Washington v. Gunther,*[3] the lower Federal courts had grappled with the interrelationship between the Equal Pay Act and Title VII with varying results.[4] In *Gunther,* the Supreme Court held, by a five-to-four majority, that sex-based compensation suits brought under Title VII are not necessarily limited by the equal work standard of the Equal Pay Act. Beyond that specific holding, however, the divided Court's decision provided no endorsement of the comparable worth theory and little guidance for the future conduct of sex-based compensation lawsuits brought under that or any other theory.

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[2] *See e.g.*, Schultz v. Wheaton Glass Co., 421 F.2d 259 (3d Cir.), *cert. denied,* 398 U.S. 905 (1970).

[3] 452 U.S. 161 (1981).

[4] *Compare,* Christensen v. State of Iowa, 563 F.2d 353 (8th Cir 1977), and Lemons v. City and County of Denver, 620 F.2d 228 (10th Cir.), *cert. denied,* 449 U.S. 888 (1980) *with,* IUE v. Westinghouse Elec., 631 F.2d 1094 (3rd Cir. 1980), *cert. denied,* 452 U.S. 967 (1981).

The narrow issue decided by the divided Supreme Court in *Gunther* was "whether respondents' failure to satisfy the equal work standard of the Equal Pay Act in itself precludes their proceeding under Title VII."[5] Before discussing the rationale of the Court's decision, it is important to emphasize what the Court did *not* decide. The Court noted:

> *Respondents' claim is not based on the controversial concept of "comparable worth," under which plaintiffs might claim increased compensation on the basis of a comparison of the intrinsic worth or difficulty of their jobs with that of other jobs in the same organization or community.* Rather, respondents seek to prove, by direct evidence, that their wages were depressed because of intentional sex discrimination, consisting of setting the wage scale for female guards but not for male guards, at a level lower than its own survey of outside markets and the worth of the job warranted. The narrow question in this case is whether such a claim is precluded by the last sentence of §703(n) of Title VII called the "Bennett Amendment."[6]

The Court also stated that it was not deciding whether the women guards had stated a prima facie case of sex discrimination under Title VII,[7] and was not deciding the precise contours of suits challenging sex discrimination in compensation under Title VII.[8]

In holding that Title VII was broader in its prohibition of sex-based compensation discrimination than the Equal Pay Act, the Court stated that the language of the so-called "Bennett Amendment" to Title VII[9] suggested an intent to incorporate only the four affirmative defenses of the Equal Pay Act into Title VII and not to limit Title VII to equal pay claims. With regard to the fourth affirmative defense—any other factor other than sex—the Court noted its potential importance for Title VII litigation, but did not decide how Title VII should be structured to accommodate the defense.[10]

In discussing the fourth affirmative defense, the Court noted that:

> Title VII's prohibition of discriminatory employment practices was intended to be broadly inclusive, proscribing "not only overt discrimination, but also practices that are fair in form, but discriminatory in operation." *Griggs v. Duke Power Co.*, 401 U.S. 424, 431, 91 S.Ct. 849, 853, 28 L. Ed.2d 158 (1971). The structure of Title VII litigation, including presumptions, burdens of proof, and defenses, has been designed to reflect this approach. The fourth affirmative defense of the Equal Pay Act, however, was designed *differently*, to confine the application of the Act to wage differentials *attributable* to sex discrimination.[11]

The Court observed that the legislative history of the Equal Pay Act demonstrates that earlier versions of the Equal Pay Act were amended to define equal work and to add the fourth affirmative defense "because of a concern that bona fide job evaluation systems used by American businesses would otherwise be disrupted."[12] The Court also stated that under the Equal Pay Act, courts and agencies are prohibited from substituting their judgment for the judgment of an employer who has adopted and applied a bona fide job rating system.[13] Thus, although it was not required to resolve the issue, the Court strongly intimated that the fourth affirmative defense may limit sex-based compensation claims to allegations of intentional discrimination and that bona fide job evaluation systems may be considered to be a "factor other than sex."

Finally, the majority opinion in *Gunther* acknowledged the county's concerns that a ruling for the plaintiffs would jeopardize the pay structures of virtually all employers and invite comparisons of job duties and pay between any jobs held predominantly by women with jobs held predominantly by men.[14] Without expressing any opinion about the validity of those concerns in other contexts, the Court said, "they are inapplicable here, for claims based on the type of job comparisons petitioners describe are manifestly different from respondents' claim."[15] In this regard, the Court pointed out that the county had conducted its own job evaluation study and had allegedly *failed to pay* the plaintiffs the evaluated worth of their jobs *because of intentional sex discrimination*. In these circumstances, the Court said, "respondents' suit does not require a court to make its *own subjective assessment* of the value of the male and female guard job or to attempt by statistical technique or other method to quantify the effect of sex discrimination on the wage rates."[16]

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[5] 452 U.S. at 166.

[6] *Id.*

[7] *Id.*

[8] *Id.*

[9] The "Bennett Amendent," added to §703(h) of Title VII on the Senate floor, states that no pay differential that is "authorized by" the Equal Pay Act shall be found to violate Title VII.

[10] 452 U.S. at 170, 171.

[11] *Id.* at 170 (emphasis added).

[12] *Id.* at 170 n.11.

[13] *Id.* at 171.

[14] *Id.* at 180.

[15] *Id.* at 181.

The dissenting opinion complained that the decision provided little guidance to employers or the lower courts as to the type of compensation practices that would violate Title VII. In this regard, the dissent noted that:

> All we know is that Title VII provides a remedy when as here, plaintiffs seek to show by *direct* evidence that their employer *intentionally* depressed their wages. And for reasons that go largely unexplained, we also know that a Title VII remedy may not be available to plaintiffs who allege theories different than that alleged here, such as the so-called "comparable worth" theory.[17]

The dissent repeatedly stressed, as had the majority, that "the opinion does not endorse the so-called 'comparable worth' theory,"[18] and "the Court does suggest that allegations of unequal pay for unequal, but comparable, work will not state a claim on which relief may be granted."[19] In this regard, the dissent noted that the majority opinion appeared to acknowledge that a lower court decision which has rejected Title VII compensation claims "based on a comparison of. . .jobs to dissimilar jobs of 'comparable' value in the community" was distinguishable.[20] Finally, the dissent noted that "we should not be surprised that the Court disassociates itself from the entire notion of 'comparable worth',"[21] and that "[t]he decision today does not approve a cause of action based on a comparison of the wage rates of dissimilar jobs."[22]

Thus, while the decision in *Gunther* resolved the immediate issue of the interrelationship of Title VII and the Equal Pay Act, it provided little long-term guidance as to the future conduct of sex-based wage discrimination litigation. Among the issues *not* resolved by the decision were the viability of discrimination claims based solely on comparable worth, the defensibility of wage rates based on competitive labor market considerations, and the nature of evidence necessary to establish a sex-based compensation claim under Title VII. This latter issue includes questions concerning the contours of the fourth affirmative defense of "any other factor other than sex," the effect of that defense on traditional Title VII burdens of proof, and whether proof of discriminatory intent is required or a showing of adverse impact is sufficient. Although the cases decided since *Gunther* have begun to flesh out some of these remaining issues, many remain unresolved.

The Viability of a "Comparable Worth" Claim

As noted above, both the majority and dissenting opinions in *Gunther* carefully emphasized that the case was not based on a pure comparable worth theory. Most courts that have considered claims of discrimination based on unequal pay for jobs of comparable worth, standing alone, have concluded that such a claim does *not* state a cause of action under Title VII. Thus, as Clarence Thomas, Chairman of the Equal Employment Opportunity Commission, recently observed, "at present the weight of authority is against the recognition of comparable worth claims under Title VII."[23] Even those who hold themselves forth as leading proponents of "pay equity" have begun to back away from a pure comparable worth approach.[24] A review of the cases addressing the viability of such comparable worth claims is illuminating.

In *Lemons v. City and County of Denver,*[25] a case decided before *Gunther,* nurses employed by the city of Denver challenged the city's practice of basing their pay on the pay received by other nurses in the community. They alleged that nurses were underpaid by the city and in the community in comparison with nonnursing jobs that were of equal value to the city. In rejecting the nurses' claim, the Tenth Circuit stated that "[t]he courts under existing authority cannot require the City within its employment to reassess the worth of services in each position in relation to all others, and to strike a new balance and relationship[;] [a]lso, this cannot be done in total disregard of conditions in the community."[26] The refusal of the Tenth Circuit to undertake an evaluation of jobs in order to determine whether they are paid in accordance with the decisions of the Ninth Circuit in *Gunther,*[27] and the Eighth Circuit in *Christensen v. State of Iowa,* is discussed below.[28]

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[16] *Id.*

[17] *Id.* at 183 (emphasis in original).

[18] *Id.* at 202.

[19] *Id.* at 203.

[20] *Id.* at 203–04; see also 452 U.S. at 166 n.7.

[21] 452 U.S. at 204.

[22] *Id.* at 204.

[23] Statement of Clarence Thomas, Chairman, U.S. Equal Employment Opportunity Commission, submitted to the Manpower and Housing Subcommittee of the Committee on Government Operations, U.S. House of Representatives, Feb. 29, 1984, p. 9.

[24] See Statement of Winn Newman on behalf of American Federation of State, County and Municipal Employees before the Manpower and Housing Subcommittee of the Committee on Government Operations, House of Representatives, Feb. 29, 1984, pp. 13–15.

[25] 620 F.2d 228 (10th Cir.), *cert denied,* 449 U.S. 888 (1980).

[26] 620 F.2d at 229

A number of district courts, in well-reasoned decisions, have also rejected claims of sex-based compensation based on comparable worth theories. For example, *Gerlach v. Michigan Bell Telephone Company*[29] involved allegations of sex-based compensation discrimination against predominantly female, engineering layout clerks when compared to the predominantly male, field assistant job. The plaintiffs contended that the engineering layout clerk job "requires work of equal or greater value and involves equal or greater levels of skill, responsibility, and ability performed under similar or less desirable working conditions than the classification of Field Assistant."[30] The court in *Gerlach* concluded "that there is no independent cause of action based on a theory *solely* relating to comparable worth and undervaluation."[31] The court stated that although evidence of comparable worth or undervaluation might be relevant under an alternative theory of wage discrimination, a comparable worth claim, in the absence of an allegation of job segregation by sex, would not establish a cause of action for sex-based wage discrimination.

In *Martin v. Frontier Federal Savings and Loan Association,*[32] the plaintiff alleged equal pay violations under the Equal Pay Act and Title VII, as well as an alternative comparable worth claim under Title VII. The court characterized a comparable worth claim as follows:

> The doctrine of comparable worth would have the courts order relief in those instances where two dissimilar jobs were proven to have the same equivalent worth to an employer but were allowed differing compensation because one of the jobs tended to be filled by one class, such as women, while the other job tended to be filled by another class, such as men.[33]

The court held that such a comparable worth theory is not viable, at least in the Tenth Circuit.

In *Spaulding v. University of Washington,*[34] a group of women members of the faculty of the University of Washington School of Nursing alleged under the Equal Pay Act and Title VII that they were paid less than faculty members employed in predominantly male schools. In approving a magistrate's recommendation that the claim be dismissed, the court found that market conditions were the dominant factor in determining faculty salaries at the University of Washington and "[t]here was no evidence that the University's reliance on market conditions in setting nursing faculty salary levels is a pretext for discrimination based on sex."[35] The court concluded that differences in faculty salary levels of various disciplines without more evidence were not sufficient to establish a prima facie case of discrimination under the Equal Pay Act or Title VII. The court in *Spaulding* adopted a finding of the magistrate that a showing that the work done by plaintiffs is, in a broad sense, comparable to work done in other departments was not sufficient to establish a prima facie violation of Title VII.[36]

In *Power v. Barry County, Michigan,*[37] a group of female jail matrons contended that they were paid less than the all-male corrections officers because of their sex. In discussing a claim that the matrons were underpaid in comparison with the corrections officers' jobs "which plaintiffs assert are of comparable and equal worth to Barry County,"[38] the court concluded that "comparable worth is not a viable legal theory under Title VII."[39] The court stated that:

> A review of the legislative history of Title VII leads me to conclude that the Supreme Court's recognition of intentional discrimination may well signal the outer limit of the legal theories cognizable under Title VII. There is no indication in Title VII's legislative history that the bound-

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[27] *Id.* at 882 (9th Cir. 1979), *rehearing den.,* 623 F.2d 130 (9th Cir. 1980).

[28] *See also,* Plemer v. Parson-Bilbane, 713 F.2d 1127 (5th Cir. 1983), in which the court concluded that the plaintiff's claim that her work was not sufficiently dissimilar from that of her successor to warrant the size of the disparity in their pay was not a cognizable claim under Title VII, absent evidence of either a transparently sex-biased system or any direct evidence that she had been paid less because of her sex.

[29] 501 F. Supp. 1300 (E.D. Mich. 1980).

[30] *Id.* at 1304 n.8.

[31] *Id.* at 1321 (emphasis in original).

[32] 510 F. Supp. 1062 (W.D. Okla. 1981).

[33] *Id.* at 1067.

[34] Unreported order adopting recommendations of special master and dismissing action under rule 41(b), case no. C74-91M (W.D. Wash. Dec. 17, 1981).

[35] Slip opinion at p. 12.

[36] The case is now on appeal to the Court of Appeals for the Ninth Circuit as case number 82-3038.

[37] 539 F. Supp. 721 (W.D. Mich. 1982).

[38] *Id.* at 722.

[39] *Id.*

aries of the Act can be expanded to encompass the theory of comparable worth.[40]

The court acknowledged the existence of a cause of action based on a showing of intentional discrimination, but stated that "[t]hat is a quantum leap from the theory of comparable worth advanced by plaintiffs, wherein the Court is required to evaluate the worth of different jobs and rank them according to their relative values."[41]

Similarly, in *Connecticut Employees Association v. State of Connecticut*,[42] the court stated a cause of action based on intentional discrimination:

> may well be the outer limit of legal theories cognizable under Title VII [citation omitted], and *a cause of action based exclusively on a theory of comparable worth would not be cognizable under Title VII.* This Court will not engage in a subjective comparison of the intrinsic worth of various dissimilar jobs.[43]

Not all courts have totally rejected the logic of the comparable worth theory. In *Briggs v. City of Madison*,[44] women employed as public health nurses alleged that the city discriminated against them in violation of Title VII by paying them less than it paid male, public health sanitarians. The plaintiffs did not allege that they were denied equal pay for equal work or access to jobs or to promotional opportunities, but rather that their jobs were undervalued because of the sex of the persons performing them.[45] The court indicated that it found some logic in the "premise that jobs which are similar in their requirements of skill, effort, and responsibility and in their working conditions are of comparable value to an employer," and in the corollary that "jobs of comparable value would be compensated comparably but for the employer's discriminatory treatment of the lower-paid employees."[46] The court in *Briggs*, however, carefully limited the extent of its holding by noting that, because the two jobs being compared in that case—public health nurses and public health sanitarians—were in the same field and had many elements in common: "[p]laintiff's showing does not require the court to evaluate the abstract 'worth. . .to society or to an employer' of one job as against another or to compare jobs that differ from one another in their requirements of effort or responsibility. . .or to 'cross job description lines into areas of entirely different skills'."[47]

Although a few courts have allowed claims obstensibly based on comparable worth allegations, they have offered little analysis as to why such claims are viable under Title VII. Courts that have accepted comparable worth claims typically have misread *Gunther* as approving such claims. In addition, claims labeled as comparable worth claims often involve allegations of intentional discrimination on the basis of sex.

In *Greenspan v. Automobile Club of Michigan*,[48] for example, the court stated without any analysis that "Title VII appears to encompass claims of comparable worth not being comparably rewarded which do not achieve the specificity or detail of an Equal Pay claim." In *EEOC v. Hay Associates*,[49] a female employee alleged that the company violated the Equal Pay Act and Title VII by paying her less than it paid a male performing substantially equal work. In addition, the plaintiff alleged a comparable worth claim under Title VII by asserting that she was "not being compensated equally well for work that was equally valuable to work performed by male employees."[50] The court characterized this latter theory as "the more novel Title VII theory of unequal salaries for comparable work."[51] Although the court found in the plaintiff's favor on her equal pay claim, it rejected her comparable worth claim. But in dictum regarding the plaintiff's comparable worth claim, the court stated, without analysis, that "[i]t is clear after the Supreme Court's decision in *County of Washington v. Gunther, supra*, that such claims are cognizable under Title VII."[52]

Finally, in *Taylor v. Charley Brothers Company*,[53] the plaintiffs alleged that the company violated Title VII by paying higher wages to a predominantly male department in its warehouse than it did to a predominantly female department. The court held that the company had intentionally classified jobs into departments according to sex and had refused to consider women for openings in the predominantly male departments. Although the court acknowledged that some wage differential was justified because of the more strenuous work performed by the male workers, it concluded that the company intentionally discriminated against women by paying them substantially less than men "because they worked in a department populated only by women, and not because the jobs they performed were inherently worth less than the jobs performed by the men, all in violation of Title VII."[54]

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[40] *Id.* at 726.

[41] *Id.* at 726, 727 n.3.

[42] 31 FEP Cases 191 (D. Conn. 1983).

[43] *Id.* at 193 (emphasis added).

[44] 536 F. Supp. 435 (W.D. Wisc. 1982).

[45] The plaintiffs relied on a theory of discriminatory *treatment* and not a theory of discriminatory *impact.*

[46] *Id.* at 455.

[47] *Id.* at 446 (citations omitted).

[48] 495 F. Supp. 1021, 1043 n.23. (E.D. Mich. 1980).

[49] 29 FEP Cases 994 (E.D. Pa. 1982).

[50] *Id.* at 1006.

[51] *Id.* at 1008.

[52] *Id.* at 1009.

[53] 25 FEP Cases 602 (W.D. Pa. 1981).

From this overview of cases, it is apparent that the courts that have considered the comparable worth theory carefully have not found it workable or persuasive. The few court decisions suggesting that such claims are viable typically either misstate the holding of *Gunther* or mislabel claims of intentional sex discrimination as comparable worth claims. The majority view, which rejects comparable worth, reflects a judicial recognition that the doctrine is based on faulty premises. As is evident from the court opinions labeling attempts to compare the worth of different jobs as "abstract" and "subjective," the courts simply have not accepted the proposition that the intrinsic worth of different jobs can be established to a legally acceptable standard of certainty.

Reliance on Market Factors

Although the labor market is the principal mechanism through which wage rates have traditionally been established under our economic system, plaintiffs in sex-based compensation cases often have argued that employers should not be allowed to rely on the marketplace value of jobs that are predominantly performed by women, because such reliance perpetuates discrimination against women that has been practiced by society at large. Since the value of nearly all jobs is affected by principles of supply and demand which influence the market value of such jobs, this issue is extremely important. Courts that have addressed the issue generally have recognized the legitimacy of considering market value in setting wage rates or salary levels.

In *Christensen v. State of Iowa,*[55] for example, a class of female clerical employees at the University of Northern Iowa alleged that the university's practice of paying the exclusively female clerical workers less than it paid the predominantly male physical workers for jobs of allegedly equal value constituted illegal sex discrimination under Title VII. Prior to 1974 the university had determined wage scales solely by reference to wages paid in the local labor market. In 1974, however, the State board of regents instituted a pay scheme known as the "Hay System," which was designed to base compensation on the job's relative worth to the university regardless of the market wage. But despite this system, after determining that the local job market paid higher wages for physical plant workers than did the starting pay under the "Hay System," the university increased the starting pay for certain physical plant employees but not for clerical employees.

The court of appeals found that these facts did not establish that the difference in wages was based on the sex of the employees. In ruling for the university, the court stated that:

> We find nothing in the text and history of Title VII suggesting that Congress intended to abrogate the laws of supply and demand or other economic principles that determine wage rates for various kinds of work. We do not interpret Title VII as requiring an employer to ignore the market in setting wage rates for genuinely different work classifications.[56]

Similarly, in *Lemons,* discussed above, the Tenth Circuit refused to reassess the value of different jobs "in total disregard of conditions in the community."[57]

In *Wilkins v. University of Houston,*[58] the plaintiffs alleged that the university violated Title VII by paying women faculty members less than it paid men. In rejecting the plaintiffs' claim, the court noted that:

> The fundamental flaw in plaintiff's statistical evidence is that it fails to take into account the fact that a number of factors operate simultaneously to influence the amount of salary a faculty member receives. *It appears uncontroverted that the most important factor is the college in which a professor teaches—all other factors being equal, professors in colleges such as law and engineering are, because of market forces outside of the university, paid significantly more than professors in colleges such as humanities and social sciences.* Accordingly, plaintiff's statistical evidence showing that men and women of the same age, rank, or length of service

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[54] *Id.* at 614.

[55] 563 F.2d 353 (8th Cir. 1977).

[56] *Id.* at 356.

[57] 620 F.2d at 229.

[58] 654 F.2d 388 (5th Cir. 1981), *vacated and remanded,* 103 S.Ct. 34 (1981), *aff'd on remand,* 695 F.2d 134 (5th Cir. 1983).

are paid differently does not demonstrate discrimination because the college factor has not been considered.[59]

Thus, the court in *Wilkins* recognized, as other courts have, that outside market forces must be taken into account in considering sex-based compensation claims.

Similarly, in *Craik v. Minnesota State University Board,*[60] the Eighth Circuit recently approved the use of market factor increases in salaries in five "scarce market areas" which were the traditionally predominantly male disciplines of business administration, computer science, economics, engineering technology, and mathematics. In doing so, the court noted that:

> The discriminatory impact of the awards is evident: the one woman who received the award represented 6 percent of the recipients at a time when women constituted more than 20 percent of SCSU's faculty. The magistrate agreed, however, with the defendant's argument that the awards were necessary to maintain a strong faculty in these disciplines. . . .We cannot say that this conclusion is clearly erroneous in view of the greater market demand for professionals in these disciplines than for professionals in disciplines such as English and Education, where women have traditionally specialized.[61]

In *Briggs v. City of Madison,* discussed above, the court rejected the plaintiff's argument that the market could not be relied upon as a justification for wage differences because the market reflects inherent biases regarding the value of "women's work." The court observed that:

> Under Title VII, an employer's liability extends only to its own acts of discrimination. Nothing in the Act indicates that the employer's liability extends to conditions of the market place which it did not create. Nothing indicates that it is improper for an employer to pay the wage rates necessary to compete in the marketplace for qualified job applicants. That there may be an abundance of applicants qualified for some jobs is not a condition for which a particular employer bears responsibility.[62]

The plaintiffs in that case had urged the court to follow Equal Pay Act cases that rejected a market defense in situations where an employer could employ women at rates lower than men to do the *same work.* The court held, however, that:

> Where. . .different skills are required for the performance of the jobs, the employer may explain and justify an apparent illegal wage disparity by showing that persons possessing the requisite skills are commanding higher wage rates in the local market.[63]

In addition, the court in *Briggs* noted that the fact that the plaintiffs were represented by a different union than the male employees with whom they sought to compare themselves might well have contributed to different wage scales.

Other court decisions dealing with differences in labor market rates for *different jobs* are to the same effect.[64] The courts' recognition of such market factors as a legitimate employer consideration in setting wage scales is consistent with the basic principles of our free market economic system. Unless we are prepared to alter that system radically, a rule of law that forces employers to ignore prevailing market wages in setting pay scales, or that holds individual employers responsible for market conditions they did not create, simply cannot work. Such court decisions, however, should not be confused with decisions holding that the existence of lower labor market rates for women or minority workers cannot justify paying them less than white males working in the *same jobs.* It is well settled that a market differential based on the sex or race of the workers, rather than on the supply of workers available and qualified for the job, is prohibited by both Title VII and the Equal Pay Act.[65]

Nature and Burden of Proof in Sex-Based Compensation Cases

Although the Supreme Court in *Gunther* noted that the incorporation of the fourth exception under the Equal Pay Act—"any other factor other than sex"—could have potential importance for Title VII litigation,[66] it did not decide how Title VII should be structured to accommodate the exception. As described above, however, the Court in *Gunther* strongly intimated that the fourth affirmative defense may limit sex-based compensation claims to allegations of intentional discrimination.[67] Also as noted, courts that have addressed the necessity for proof of intentional discrimination in sex-based compensation cases under Title VII generally have held that such proof is required.[68]

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[59] 654 F.2d at 402 (emphasis added).

[60] 34 FEP Cases 649 (8th Cir. 1984).

[61] *Id.* at 661.

[62] 635 F. Supp. at 447.

[63] *Id.*

[64] *See, e.g.*, Moseley v. Kellwood Co., 27 EPD 32, 348 (E.D. Mo. 1981); Schulte v. State of New York, 533 F. Supp. 31 (E.D.N.Y. 1981). In Melani v. Bd. of Higher Ed., 31 FEP Cases 648 (S.D.N.Y. 1983), the court allowed plaintiffs challenging university faculty pay scales to rely on a statistical study that did not take into account different market conditions for the different academic departments in question, but the decision appears to be limited to the specific facts of the case, since the court noted testimony by the plaintiffs' statistical expert that the inclusion of the academic department "would not yield a statistically significant improvement in his model due to the large number of departments." 31 FEP Cases 655. Thus, *Melani* does not appear to limit the general rule of the cases cited above, which recognize the validity of the labor market defense.

[65] *See e.g.*, Corning Glass Works v. Brennan, 417 U.S. 188, 207–08 (1974); Hodgson v. Brookhaven Gen. Hospital, 436 F.2d 719 (5th Cir. 1970).

The courts' reluctance to infer unlawful discrimination from the mere existence of differences between the wages of predominantly male and female jobs without some proof of discriminatory intent is clearly well founded. Not every statistical imbalance supports an inference of discrimination. As the Fifth Circuit recognized in a related context, the disparate impact theory of discrimination "applies only when an employer has instituted a *specific procedure,* usually a selection criterion for employment, that can be shown to have a *causal connection* to a class-based imbalance in the work force."[69] Consequently, adverse impact analysis is appropriate only when the aggrieved party can identify "the specific employment practice responsible for the disparate impact. . .so that the employer can respond by offering proof of its legitimacy."[70] But wage differences that cross occupational lines seldom hinge upon the effects of such specific, identifiable procedures. On the contrary, job evaluation and job-pricing procedures are typically complex processes involving interrelated procedures, criteria, and judgments. So many different factors affect the setting of compensation levels for different job classifications that discrimination ordinarily cannot reasonably be inferred from the mere existence of wage differentials.

The refusal of most courts to allow pay discrimination claims based on disparate impact analysis also recognizes the need for an equitable allocation of the burden of proof in such cases. The disparate impact theory has been allowed in other situations in part because knowledge of the "business necessity" for certain employment practices is "uniquely available to the employer," thus making it reasonable to require the employer to bear the burden of explaining such necessities. But many of the factors that underline differences in compensation for different groups within the work force—e.g., market wage factors; differences in work patterns, career training, and worker preferences; differences in education, etc.—operate outside the immediate employment relationship and beyond the particular employer's knowledge and control. Hence, the use of an impact theory would be inappropriate, as it would place an unfair rebuttal burden on the employer.

On the other hand, under the disparate treatment approach to proving discrimination as refined by the Supreme Court in *Texas Department of Community Affairs v. Burdine,*[71] the plaintiffs in such cases are afforded the opportunity to show by any legally admissible evidence, including statistics, that any sex-based differences in pay were caused by intentional discrimination. If they succeed in making such a showing, they are entitled to a remedy unless the employer can articulate a legitimate business explanation for the differences. Even then, the plaintiffs are given a further opportunity to prevail if they can show that the employer's explanation is a pretext. Application of the *Burdine* standards to pay discrimination claims, thus, provides the claimants a fair opportunity to prove their charges without requiring the courts to rely upon subjective evaluations of jobs or to draw speculative inferences. This distribution of the burdens of proof has been found appropriate to protect the interests of claimants in a wide range of discrimination categories, and it would appear fully adequate to protect victims of alleged wage discrimination, as well.

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[66] 452 U.S. at 170.

[67] In EEOC v. Sambo's of Georgia, Inc., 530 F. Supp. 86 (N.D. Ga. 1981), the court addressed the nature of proof required to establish a sex-based compensation claim under Title VII as follows:

> Where, as in cases of this type, Congress has specially or separately treated a category of alleged employment discrimination and spelled out, by statute, the employer's defense or defenses, the courts are not free to impose special burdens on employers or otherwise to provide plaintiffs with alternative theories of recovery cumulative of the special statutory provision addressing the type of alleged discrimination at issue. Instructive in this regard is the recent decision of the United States Supreme Court in *County of Washington v. Gunther,* 452 U.S. 161 101 S.Ct. 2242, 68 L. Ed. 2d 751 (1981). In *Gunther,* the Supreme Court ruled that equal pay claims may be cognizable under Title VII, but made clear that the Bennett Amendment to Title VII has the effect of incorporating into Title VII, by reference, the affirmative defenses set out in the Equal Pay Act, one of which affirmative defenses precludes the application of the disparate impact theory. The Court in *Gunther,* plainly indicates that the disparate impact doctrine of *Griggs v. Duke Power Co., supra,* is therefore inapplicable in Title VII cases alleging wage discrimination on the basis of sex. 530 F. Supp. at 93.

[68] *See, e.g.,* Plemer v. Parsans-Gilbane, 713 F.2d at 1133; Power v. Barry County, Mich., 539 F. Supp. at 723; Conn. Employees Ass'n v. State of Conn., 31 FEP Cases at 193; *but see,* AFSCME v. State of Washington, 578 F. Supp. 846 (D. Wash. 1983).

[69] Pouncy v. Prudential Insurance Co., 688 F.2d 795, 800 (5th Cir. 1982) (emphasis added).

[70] 668 F.2d at 801.

[71] 450 U.S. 248 (1981).

Some confusion about the allocation of the burdens of proof in sex-based pay discrimination cases under Title VII has been created, however, by court opinions indicating that the employer must affirmatively establish that any wage differential between male and female workers is caused by a "factor other than sex." In *Kouba v. Allstate Insurance Company,*[72] for example, female sales agents brought an action under Title VII challenging the use of prior salaries as one of several factors for setting minimum salaries for new agents. The sales agents alleged that the use of prior salaries resulted in lower minimum salaries for women and constituted unlawful sex discrimination under Title VII. The company alleged that prior salary was a "factor other than sex," but the Ninth Circuit held that because the "factor other than sex" defense is treated as an affirmative defense that the employer must plead and prove under the Equal Pay Act, the employer also bears that same burden in a sex-based compensation case under Title VII. The court stated that:

> [W]e have held that even under Title VII, the employer bears the burden of showing that the wage differential resulted from a factor other than sex. [citations omitted] Nothing in *Burdine* converts this affirmative defense, which the employer must plead and prove under *Corning Glass,* into an element of the cause of action, which the employee must show does not exist.[73]

The court in *Kouba* did reject the plaintiff's argument that employers can *never* base pay rates on any factor that perpetuates historic sex discrimination, but it went on to state that:

> An employer. . .cannot use a factor which causes a wage differential between males and female employees absent an acceptable business reason. Conversely, a factor used to effectuate some business policy is not prohibited simply because a wage differential results.[74]

Thus, the court indicated that it would scrutinize the reasons for any male-female pay differential, and that the burden would be on the employer to show that the difference was justified. As a safeguard against the possibility that a business reason might be asserted as a pretext for discrimination, the court said it would require that the employer "use the factor reasonably in light of the employer's stated purpose as well as its other practices."[75]

At first glance, the *Kouba* decision appears to place employers in sex-based pay discrimination cases under Title VII under a significantly heavier burden to justify their practices than is normally imposed on employers in disparate treatment cases. This result is understandable only if it is recognized that the case involved a pay difference between men and women working in *the same jobs*—that is, a classic "equal work" situation. In that situation, a prima facie case of discrimination has already been made, and thus it makes sense to require the employer to bear the burden of proving the "factor other than sex" defense. It would not make sense, however, to impose that burden on the employer any time a male-female wage disparity *crossing occupational lines* has been shown.[76]

The court in *Schulte v. Wilson Industries, Inc.,*[77] also concluded that the burden of proof on the employer in an equal pay case under Title VII operates differently than in other types of Title VII actions:

> It is the opinion of this Court that the burden of proof allocation discussed in *Burdine, supra,* is not applicable to Title VII claims alleging denial of equal pay for equal work. Under *Gunther,* a defendant must rebut a prima facie case of wage discrimination under Title VII, by establishing an affirmative defense authorized by the Equal Pay Act. It is well established that these affirmative defenses must be established by a preponderance of the evidence. [citation omitted] Consequently, it stands to reason that in order for a defendant to establish nonliability for sex based wage differentials, it must prove by a preponderance of the evidence that such differentials were the result of seniority, merit, quantity or quality of production or another factor other than sex. This conclusion is consistent with results reached in other courts since the *Burdine* and *Gunther* decisions.[78]

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[72] 691 F.2d 873 (9th Cir. 1982).

[73] *Id.* at 875.

[74] *Id.* at 876.

[75] *Id.* at 877.

[76] On another point, the court in *Kouba* rejected the plaintiff's argument that the "factor other than sex" exception limits business reasons covered by the exception to those that measure the value of an employee's job performance to the employer. The court noted that "[w]hile a concern about job-evaluation systems served as the impetus for creating the exception, Congress did not limit the exception to that concern." 691 F.2d at 877.

[77] 547 F. Supp. at 324 (S.D. Tex. 1982).

[78] *Id.* at 340.

Once again, it is important to note that this case was treated by the district court as an *equal pay* case under Title VII. Unfortunately, it is unclear from the wording of either the *Schulte* or *Kouba* opinions what burden of proof the court would have applied had it been confronted with a case similar to *Gunther* or a comparable worth case.

In contrast to the approaches taken in *Kouba* and *Schulte* is *Francoeur v. Corroon & Black Company*[79] in which the court stated that:

> To the extent that her Title VII claim does not rest on a determination that [the plaintiff] performed equal or substantially equal work (as indeed her claim need not so rest, see *County of Washington v. Gunther* [citation omitted]), we conclude that plaintiff has not borne her burden of proving by a preponderance of the evidence, *McDonnell Douglas Corp. v. Green* [citation omitted], that defendant's asserted reasons for the pay disparity between Russin and plaintiff were pretextual.[80]

Thus, the court in *Francoeur* apparently adopted without discussion the traditional *Burdine* burden of proof for use in sex-based compensation cases.

In *Lanegan-Grimm v. Library Association of Portland,*[81] a female "book mobile driver/clerk" alleged under Title VII that she was paid less than male "delivery truck drivers" because of her sex. Preliminarily, the court noted that "Title VII will reach disparities in compensation where the jobs do not involve equal work but where the disparities can be traced to intentional discrimination [citation omitted], although discriminatory intent is not a prerequisite to the success of all Title VII suits."[82] With regard to the allocation of the burden of proof in sex-based compensation cases under Title VII, the court held that a defendant need only articulate some legitimate nondiscriminatory reason in order to overcome the plaintiff's prima facie case. Citing *Burdine*, the court noted that "[u]nlike an Equal Pay Act rebuttal, which is an affirmative defense, defendant's burden at this stage is one not only of production, but proof."[83] In rejecting the plaintiff's argument that in all Title VII sex-based compensation cases the defendant has the burden of proving one of the four Equal Pay Act exceptions in order to rebut a prima facie case, the court noted that:

> This is incorrect. Such a burden is imposed only if the plaintiff establishes that its claim meets the Equal Pay Act standards of substantially equal work.[84]

The approach taken in these later cases, applying the *Burdine* analysis to sex-based pay discrimination claims under Title VII, seems to comport best with the intent of the Bennett amendment. The legislative history of Title VII indicates that the Equal Pay Act's affirmative defenses were imported into the 1964 act via the Bennett amendment to *limit*, not to expand, sex-based compensation claims under Title VII.[85] It would be anomolous to conclude that the effect of this amendment is to make the employer's burden greater in cases of alleged sex discrimination in compensation than in other kinds of cases arising under Title VII.

Another important aspect regarding the nature and burden of proof in sex-based compensation claims is whether a claim can be established in the absence of proof of intentional segregation of workers by the employer. A number of courts have indicated that such proof is an essential element of a sex-based compensation claim under Title VII.[86] Some commentators, however, have theorized that unlawful discrimination can be inferred from the mere presence of de facto segregation of jobs by race or sex coupled with differentials in wage rates, without regard to whether the segregation was specifically caused by the employer. Referring to an article by Professor Ruth Blumrosen propounding this theory,[87] the court, in *Briggs v. City of Madison*, had occasion to consider whether it is reasonable to conclude that "no more is necessary to a prima facie case of legally impermissible wage discrimination than a showing of past or present job segregation by race or sex."[88] In rejecting Blumrosen's approach, the court said it doubted whether there exist means of distinguishing the extent to which discrimination has contributed to sex-segregated jobs as opposed to nondiscriminatory factors that may have contributed to the same result.

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[79] 552 F. Supp. 403 (S.D N.Y. 1982).

[80] *Id.* at 408.

[81] 560 F. Supp. 486 (D. Or. 1983).

[82] *Id.* at 489.

[83] *Id.* at 490.

[84] *Id.* at 490 n.1.

[85] The legislative history of the Bennett amendment is discussed at length in the majority and dissenting opinions of the Supreme Court in *Gunther*, 452 U.S. at 171–76 (majority opinion by Justice Brennan), and 452 U.S. at 184–88 (dissenting opinion by Justice Rehnquist).

[86] *See, e.g.*, Gerlach v. Michigan Bell Tel. Co., 501 F. Supp. 1300; Briggs v. City of Madison, 536 F. Supp. 435.

[87] See Blumrosen, "Wage Discrimination, Job Segregation and Title VII of the Civil Rights Act of 1964," *University of Michigan Journal of Law Reform* (1979), vol. 12, p. 397.

[88] 536 F. Supp. at 444.

An important point is that the court noted that "Blumrosen's thesis suffers also from its exclusive focus upon historical events and societal attitudes, rather than upon allegedly unlawful acts of the employer who is the defendant in the lawsuit."[89] In this regard, the court stated that "[t]he statute's remedial purpose is not so broad as to make employers liable for employment practices of others or for existing market conditions."[90] Thus, the court concluded that "[t]he mere showing that plaintiffs are women occupying a sex-segregated job classification in which they are paid less than men occupying a sex-segregated job classification fails to make a prima facie case."[91]

The Washington State Decision

A recent district court decision highlights the problems inherent in a number of the issues that were left unresolved by the Supreme Court after *Gunther.* In *AFSCME v. State of Washington,*[92] the district court concluded that the State of Washington violated Title VII by compensating women employees in female-dominated job classifications at levels below those paid to employees in male-dominated job classifications that had been rated comparably in State-sponsored job evaluation studies. The court ordered that approximately 15,500 State employees be given immediate wage increases and that backpay be afforded to all members of the class. Although no final remedy has been determined, estimates of the costs of the relief ordered range from around $300 million to a billion dollars.

The judge in the *Washington State* case initially declared that the case was not a pure comparable worth[93] case, since he was not being called upon to evaluate the inherent value of any jobs,[94] and since the State's own determination of job worth had been done in 1974 and updated several times thereafter. Rather than a comparable worth case, the court viewed it as a "failure to pay" case analogous to *Gunther.*[95] It framed the issue as whether "the Defendant's failure to pay the Plaintiff's [sic] their evaluated worth, under the provisions of Defendant's comparable worth studies, constitutes discrimination in violation of the provisions of Title VII."[96] The court answered this issue in the affirmative.

In explaining its decision, the court declared that "there has been historical discrimination against women in employment in the State of Washington, and that discrimination has been, and is manifested by direct, overt and institutionalized discrimination."[97] The court also found that "there is no credible evidence in the record that would support a finding that the state's practices and procedures were based on any factor other than sex."[98] In reaching its decision, the court relied upon both the disparate treatment and the disparate impact theories of discrimination.[99]

The "Evidence" of Disparate Treatment: In holding that the plaintiffs established intentional discrimination under a disparate treatment theory, the court relied heavily on the State's failure to implement pay scales based upon its "comparable worth" job evaluation studies. The court recited that:

> Discriminatory intent is established by (a) the deliberate perpetuation of an approximate 20 percent disparity in salaries between predominately male and predominately female job classifications with the same number of job evaluation points; (b) other statistical evidence including the inverse correlation between the percentage of women in a classification and the salary for the classification; (c) application of subjective standards which have a disparate impact on predominately female jobs; (d) admissions by present and former State officials that wages paid to employees in predominately female jobs are discriminatory; and, (e) the Defendant's failure to pay the Plaintiffs their evaluated worth as established by the Defendants.[100]

The significance the court drew from each of these factors appears to depend, at least to a substantial degree, on the assumption that the results of the

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[89] *Id.* at 445.

[90] *Id.*

[91] *Id.* The court in *Briggs* found, however, that the plaintiffs established a prima facie case by showing that (1) they are members of a protected class, (2) who occupy a sex-segregated job classification, (3) that is paid less than (4) a sex-segregated job classification occupied by men, and that (5) the two jobs involve work that is similar in skill, effort, and responsibility.

[92] 578 F. Supp. 846 (D. Wash. 1983).

[93] With regard to the definition of comparable worth, the court noted that:

> Comparable Worth, as defined by the Defendant, means the provision of similar salaries for positions that require or impose similar responsibilities, judgments, knowledge, skills, and working conditions. 578 F. Supp. at 862.

[94] *Id.* at 862.

[95] *Id.* at 865.

[96] *Id.* at 866.

[97] *Id.* at 864.

[98] *Id.* at 866.

[99] *Id.* at 867.

[100] *Id.* at 864.

State's job evaluation studies were valid measurements of the relative "worth" of the jobs in question—more valid, in fact, than the values placed on those jobs by the competitive labor market system that formed the basis for the State's existing pay scales. Thus, despite the court's denials, the rationale of the decision appears to rest, at least in substantial part, on a "comparable worth" theory.

The court also cited the fact that the State had run newspaper "help-wanted" ads in separate "male" and "female" columns until 1973[101] and a modest increase ($100 per year) to persons in undervalued jobs[102] as further evidence of intentional discrimination. It is not clear, however, whether the court would have found pay discrimination based on these factors had it not been for the inferences the court drew from the State's comparable worth job evaluation studies. Moreover, although the court addressed the *Burdine* elements for disparate treatment cases, it never clearly stated how it was allocating the burden of proof.

The "Evidence" of Disparate Impact: The court found that the plaintiffs also established a disparate impact claim under Title VII. As discussed above, under a disparate impact theory, the plaintiffs must demonstrate that an objective, facially neutral employment practice has a "significantly discriminatory impact."[103] The court found that the objective, facially neutral practice was the State's system of compensation,[104] and concluded that the State's own job evaluation studies, which showed a 20 percent disparity betwen comparably rated male and female jobs, were sufficient to establish a prima facie case of disparate impact. Here again, it is apparent that the court's conclusions rested heavily on the assumption that the study results which showed this disparity were *facts* of sufficient reliability to form the basis for legal findings.

After determining that the plaintiffs had established a prima facie case, the court placed the burden on the State of "demonstrating a legitimate and overriding business justification"[105] for the compensation system. Again, without discussing the nature of the State's evidence, the court stated that it "did not rebut the Plaintiff's prima facie showing of disparate impact nor did Defendant's evidence outweigh the countervailing national interest in eliminating employment discrimination."[106]

Remedy: The court ordered the State to stop using its existing compensation policies and to implement the State legislature's 1983 comparable worth plan immediately, instead of phasing it in over a 10-year period as the legislature had intended. In addition, the court ordered that backpay be given to all members of the class, both male and female, retroactive to September 16, 1978.[107] A special master was appointed by the court to oversee implementation of the court's order. Among other things, the special master will be required to identify all of the class members and determine the precise amount of their awards. The case now is on appeal to the United States Court of Appeals for the Ninth Circuit, with no decision expected anytime in the near future.

Legal Problems Inherent in the Court's Analysis: To the extent that it rests on disparate impact analysis, the *Washington State* decision is inconsistent with the substantial body of case law, discussed above, which holds that intentional discrimination must be proven in order to establish a sex-based compensation claim under Title VII. The State will no doubt argue on appeal that the court's use of impact analysis was in error.

To the extent that it rests on disparate treatment analysis, the decision is largely a product of the court's willingness to treat the results of the State's job evaluation studies as *the* true and reliable measurements of the inherent worth of the surveyed jobs. If sustained on appeal, the reasoning of this decision would effectively require any employer who conducts such a study to implement wage rates fully proportional to the study's results "right now," in the court's words, or face the prospect of backpay liability for any disparities between such rates and the rates actually paid. The court's reasoning does not appear to allow for the possibility that there may be more than one legitimate means of evaluating jobs or that different systems can produce substantially different, but equally legitimate scales of job worth. Nor does it afford any room for an employer to conduct such a study for advisory or diagnostic purposes, while reserving the right to decide later whether to revise its compensation system based on the study.

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[101] *Id.* at 860.

[102] *Id.* at 863.

[103] Connecticut v. Teal, 457 U.S. 440, 446 (1982).

[104] 578 F. Supp. at 864.

[105] *Id.* at 863.

[106] *Id.*

[107] This covers the 2-year period preceeding the filing of the EEOC charge.

As such, despite the court's reluctance to label the *Washington State* case a comparable worth case, the rationale of the court's decision is plainly at odds with the reasoning of the numerous other court decisions, reviewed above, that have rejected comparable worth theories under Title VII.

Moreover, the *Washington State* decision is also in conflict with the substantial body of decisions, reviewed above, in which the labor market factor has been recognized as a legitimate "factor other than sex" justifying pay differentials between different classes of jobs. By refusing to recognize the State's prevailing market-wage system as a legitimate alternative to an internal job-content-based pay system, the court's decision implicitly casts doubt on market-based mechanisms that are used, in one degree or another, in the vast majority of all existing compensation systems in this country.

These and other issues can be expected to be debated vigorously on appeal in the *Washington State* case later this year. Although it would be unwise to predict the final outcome of the appeal, it may be observed that if the court of appeals does not at least modify the district court's reasoning to be more responsive to the problems recited above, the case could ultimately set a precedent for extremely costly and disruptive judicial intrusions into the operation of the economy.

Conclusion

Title VII and the Equal Pay Act were carefully designed to provide women and minority workers with effective protection against discrimination in compensation without unnecessarily disrupting the economic mechanisms through which wage rates have traditionally been established in this country. As the foregoing review of cases illustrates, the courts, for the most part, have been faithful to this balanced scheme in addressing the issues surrounding comparable worth. The *Washington State* case stands out as a glaring exception.

Many important legal questions bearing on sex-based compensation discrimination claims have yet to be resolved definitively by the courts in the wake of the Supreme Court's decision in *Gunther*. But the process of resolving these issues is well underway, and apart from the *Washington State* case, most of the lower courts' decisions have shown sensitivity to the complexity of these issues, as well as common sense in deciding them within the framework of our existing laws.

Thus, while the courts have been quick to provide remedies for blatant or intentional discrimination in compensation, the vast majority have refused to endorse claims based on the dubious theory of comparable worth. Moreover, nearly all courts addressing the appropriateness of a market defense have concluded that an employer may take prevailing wages into account in structuring its pay system. Although the courts have shown some difficulty sorting out burden-of-proof questions, it appears that most are recognizing the *Burdine* analysis as the appropriate mode of evaluating sex-based pay discrimination claims, at least where dissimilar jobs are involved.

This balanced legal approach to compensation issues fits together well with Title VII's general protections against discrimination in hiring, job assignments, transfers, promotions, and other employment practices. The combined effect of these legal protections is to require that women and minority workers be given equal access to all types of jobs; that when they perform the same work as white males, they be paid on the same basis; and that no matter what type of work they choose, their compensation not be restricted or downgraded because of their sex or minority status. Effective enforcement of these existing legal protections will assure pay equity in a very real sense without requiring radical changes in traditional compensation practices or threatening the massive economic disruptions that would be likely to follow from a comparable worth approach.

PANEL

Comparable Worth as a Remedy for Sex Discrimination

Pay Equity Is a Necessary Remedy for Wage Discrimination

By Joy Ann Grune*

Introduction

The entry of working women into the U.S. labor force is one of the most significant developments of the 20th century. Although most women work because they need to and many because they want to, the most powerful explanation for the extraordinary movement of women into the paid work force is the accelerated demand for their labor. The transformation of the U.S. economy, particularly since World War II, would not have been possible without women's response to the call for new workers, to fill new jobs, in growing industries. This is the terrain that gives birth to pay equity.

As a historical development, pay equity is a direct response to the societal importance—so often denied and ridiculed—of females and female-dominated jobs in today's economy. Women demand pay equity as they reject their trivialization as workers.

Culture, history, psychiatry, and social relations all have a role in wage discrimination, as they do in other legal rights issues. They contribute to the creation and maintenance of a gender-based division of labor in the market economy that is old, pronounced, and pays women less. But the focus of pay equity is on the translation of theory into practice, which occurs when an employer sets discriminatory wages for a job classification because of the sex, or race or ethnicity, of a predominant number of its occupants.

This paper defines pay equity as a matter of discrimination and shows why affirmative action is not a substitute. It examines five fallacies behind market-based arguments against pay equity and assesses the question of cost. Recent activities of Federal, State, and local governments are described; the Federal Government's lack of enforcement of the 1964 Civil Rights Act is reviewed; and recommendations are offered for effective government involvement.

Pay Equity Is a Necessary Remedy for Wage Discrimination

The principle of pay equity requires the elimination of discrimination in pay within a firm that has operated to depress the wages of entire job classifications because of the sex of the overwhelming majority of occupants. The goal of pay equity is accomplished by raising the wages of predominantly female jobs in a workplace to match the wages of similarly valued male jobs.

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* Former Executive Director, National Committee on Pay Equity.

The challenge of pay equity is deliberate and focuses directly on the wage-setting process. It does not rely on indirect or laissez faire overtures such as affirmative action programs or the market, which have shown themselves historically to be inadequate to the task of significantly reducing overall wage bias.

Pay equity is an essential remedy for wage discrimination based on sex. It is uniquely capable of reaching deeply structured patterns of wage discrimination associated with job segregation.

The majority of pay equity initiatives have been efforts to reach sex-based discrimination. When patterns of job segregation and wage depression in a workplace are associated with race or ethnicity, the principle of pay equity also can be applied. In New York State, for example, the pay equity job evaluation study now taking place is studying race and sex. U.S. House Resolution 239 introduced by Congresswoman Olympia Snowe (R–Me.) in 1984 calls for a pilot pay equity job evaluation study of the Federal sector that is not restricted to sex.

The U.S. Supreme Court, in *Gunther v. County of Washington*, has decided that wage discrimination involving jobs that are comparable, though not equal, is illegal. Such violations of Title VII of the Civil Rights Act must be stopped if women, and the men who work with them in predominantly female jobs, are to be released from employment discrimination.

The persistence of the wage gap and job segregation; the findings of virtually every pay equity job evaluation study showing that predominantly female jobs are paid less than male jobs of comparable worth; favorable court decisions in *Gunther, Washington State,* and *IUE v. Washington;* and growing research and understanding of how the labor market operates—all indicate that wage discrimination is at work in creating consistently low pay for female-dominated jobs.

Equal Pay for Equal Work and the Elimination of Discrimination in Hiring and Promotion Are Not Substitutes for Pay Equity

A comprehensive program to eliminate employment discrimination against women needs to include provisions for pay equity, equal pay for equal work, and the elimination of discrimination in hiring and promotion. These are complementary, but analytically distinct approaches to related, but different problems encountered in a workplace. All are required by law.

Equal Pay for Equal Work

WIth few exceptions, equal pay for equal work is accepted by the public as a fundamental right of working people. The Equal Pay Act, passed by the U.S. Congress in 1963, mandates equal pay for equal work performed by men and women.

In 1962, 1 year before the Equal Pay Act was passed, full-time, year-round working women earned 59.5 cents for each dollar earned by their male counterparts. Today, the figure is 61 cents.[1] The inability of the act to signficantly reduce the wage gap should not be misconstrued. For example, 6 years ago Daniel Glisberg, then Assistant Secretary of Labor, reported in a speech to the Coalition of Labor Union Women that the Equal Pay Act "has obtained $164 million for some 272,000 employees, nearly all women. These figures do not include the $150 million settlement obtained for 13,000 employees of AT&T. In 1978 alone, we were able to restore income or other compensation to more than 15,000 workers for a total of $8.7 million."[2]

Enforcement of the Equal Pay Act has brought higher wages to many women. Stronger enforcement is still needed, particularly since greater numbers of women are slowly assuming jobs equal to men's.

Unfortunately, however, the vast number of employed women do not hold jobs equal to those held by men, and, therefore, the right to a nondiscriminatory wage afforded by the Equal Pay Act does not apply to their situation. In addition, the movement of women into nontraditional jobs over the last 20 years has been outpaced by the movement of women into the work force through low paying, mostly female jobs.

In 1982 over 50 percent of working women were found in 20 out of a total of 427 occupations.[3] It is estimated that two-thirds of all women and men would have to change jobs to achieve equality of distribution by sex.[4] The degree of occupational segregation by sex is as severe today as it was over 80 years ago.[5]

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[1] *The Wage Gap: Myths and Facts* (National Committee on Pay Equity, 1983).

[2] Joy Ann Grune, *Manual on Pay Equity: Raising Wages for Women's Work* (Conference on Alternative State and Local Policies and National Committee on Pay Equity, 1980), p. 61.

[3] *The Wage Gap: Myths and Facts.*

Women of all colors are concentrated in low paying, overwhelmingly female jobs. Although the employment distributions of different ethnic and racial groups of women are converging, there are still differences. For example, in 1979, clerical work employed more than 35 percent of all working women, including 35.9 percent of white women, 29 percent of black women, 31.1 percent of Mexican women, 38.4 percent of Puerto Rican women, and 31.2 percent of Cuban women.[6] Two out of 12 occupational groups—service and clerical work—employ about 60 percent of black women and 53 percent of white women.[7]

> Increasingly, women of color are moving into the same occupations as those in which White women work, so that:
>
> - Clerical work now accounts for almost one-third of women workers in nearly every racial and ethnic group;
> - Only Cuban, Chinese and Native American women have slightly higher percentages in operative, blue-collar work than in clerical;
> - The jobs held by Black women have shifted significantly from blue-collar, operative work to white-collar work: clerical, professional, technical, managerial and sales;
> - Mexican American and Puerto Rican women remain concentrated in operative occupations, although this occupational category is second for both of these populations to clerical work.[8]

The facts indicate that the vast majority—perhaps 80 percent—of women work in predominantly female jobs. The wage discrimination they experience is more often and more directly in reference to predominantly male jobs that are comparable, not equal. Thus, the Equal Pay Act is limited in its ability to help them.

The Elimination of Discrimination in Hiring and Promotion

Women workers are moving into predominantly male, white-collar and blue-collar jobs. This movement has not seriously reduced the index of job segregation or the wage gap because simultaneously even more women have entered the work force through predominantly female jobs with low wages.

The entry of women into nontraditional jobs with nondiscriminatory wages is in large measure due to the Equal Pay Act, Civil Rights Act, and Executive Order 11246. If these laws had not been in place, it is likely that the degree of job segregation and the wage gap would have dramatically increased over the last 20 years because the entry of women into feminized jobs with low wages, particularly into the expanding clerical and service sectors, would have even more outpaced their movement into nontraditional work with higher wages.

The elimination of discriminatory obstacles that impede or prevent women from moving into jobs is required by law. It is one essential component of an antidiscrimination program that can allow women to operate as workers without being victimized by illegal acts. However, this approach is no substitute—legally or pragmatically—for requiring the elimination of sex-based wage discrimination.

First of all, the law is already clear in stating that wage discrimination is illegal and must be eliminated whether it occurs between jobs that are equal or between jobs that are comparable. The availability of an affirmative action program does not transform an illegal act of wage discrimination into a legal one. Similarly, a woman's decision to enter or stay in a job—regardless of her reasons for so deciding—does not give the employer license to discriminate. This is the case in equal pay for equal work situations and in situations with comparable jobs. Finally, employer efforts to stop discrimination against women who try to move into male-dominated jobs do not, under any circumstances, permit the employer to reduce wages for other jobs because they are held by women.

A nurse has the right to an opportunity to be a doctor, and a secretary has the right to an opportunity to be an executive or a management analyst. To tell a nurse that she must be a doctor to escape discrimination in employment is to blame the victim and to turn antidiscrimination laws inside out.

Along similar lines, it has been suggested that pursuing job integration through affirmative action can take the place of pay equity. It is argued that if typists, nurses, secretaries, and librarians, for example, were to leave their fields and find jobs in higher paying, traditionally male jobs, the wage gap would close. This approach cannot legally substitute for pay equity, for the reasons offered above. It is an important complement, but has difficulties.

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[4] Heidi Hartmann, "The Case for Comparable Worth," *Equal Pay for Unequal Work* (Eagle Forum Education and Legal Defense Fund, 1984), p. 14.

[5] Ibid.

[6] *Women of Color and Pay Equity* (National Committee on Pay Equity, 1984).

[7] Ibid.

[8] Ibid.

First, as indicated earlier, it is estimated that two-thirds of men and women would have to change jobs for equality of occupational distribution to occur. Given these numbers, closing the wage gap through job integration and affirmative action would take a very long time, perhaps forever.

Second, this approach calls on women to forsake years or decades of experience and training. Some women may want to; many may not. But in any event, such an employment policy makes little sense because its success would depend on millions of skilled women deserting the service sector infrastructure of the economy.

Third, an employment policy whose goal is to place millions of women into industries and occupations that are male dominated presents the problem of training and attracting men to replace them. Finally, although the service sector has numerous predominantly female jobs and contains some of the fastest growing occupations, many traditionally male jobs, especially in basic industry, are suffering growing rates of unemployment. A wage gap reduction policy that tries to move growing numbers of women from high growth jobs to shrinking, predominantly male jobs is doomed to failure.

It is distinctly possible that the implementation of pay equity will do as much as or more than any other policy to promote job integration, affirmative action, and the elimination of discrimination in hiring and promotion:

- The empowerment of women, which is already a frequently visible accompaniment to pay equity, will result in more determined women seeking new types of work;
- There will be much less of an incentive to employers for maintaining sex-segregated jobs once pay equity is implemented;
- Affirmative action will be used by employers to integrate jobs so as to avoid financial and legal liability in pay equity cases; and
- Higher wages in predominantly female jobs will attract men.

The Failure of Market Arguments Against Pay Equity

Great confusion is being created around pay equity and the market. It has been alleged that pay equity would destroy the market and is unnecessary and impossible because of the market. These arguments are not accurate and are based on five fallacies:

(a) The market is free and operates without interventions.

(b) The market will eliminate discrimination.

(c) Pay equity requires the setting of wages outside of a market economy and is an alternative to market-based wage determination.

(d) Employers currently respond directly and uniformly to market forces.

(e) Wages are currently set almost exclusively and directly on the basis of market wage rates.

The Market Is Free and Operates Without Interventions

There are few political tendencies today which claim that the market is or should be completely free. For the sake of employers, children, and adult workers, government has long intervened in the economy with legislation, Executive orders, appropriations, tax codes, etc. These steps are taken because of the belief that some principles take precedence over the right of a market to be free. Child labor laws, collective bargaining laws, antidiscrimination laws, health and safety laws, environmental laws, tax breaks, and targeted subsidies to ailing companies are examples of the belief in action.

In addition to government, companies have also intervened in market behavior. In the employment area, for example, 9 to 5: National Association of Working Women has claimed that "large employers in major cities form consortia to discuss wage rates and benefits. Working Women believes that such groups have been influential in holding down clerical salaries over the years."* Nine to 5 has specifically identified the Boston Survey Group, a group of large employers that has met for the purpose of setting clerical salaries.

The Market Will Eliminate Discrimination

The market has not eliminated discrimination, and there is nothing to indicate that it will. In fact, according to the National Academy of Sciences,

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* Grune, *Manual on Pay Equity*, p. 145.

"market wages incorporate the effects of many institutional factors, including discrimination."[10]

When an employer sets wages directly on the basis of market rates for predominantly female jobs, it incorporates prior discrimination by other employers. Without efforts to remove bias from market rates, this type of reliance on the market becomes one of the most damaging transmitters of discrimination because it serves to carry discrimination from employer to employer to employer.

Pay Equity Requires the Setting of Wages Outside of a Market Economy and Is an Alternative to Market-Based Wage Determination

Pay equity does not mean the destruction of an external, market-based, salary-setting scheme that will be replaced by a purely internal one. The goal of pay equity is to eliminate bias and discrimination in wage setting. This bias may operate through market rates, through the way the employer responds to or relies on the market, through biased job evaluation systems, or through purely subjective judgments made by employers. The objective of pay equity is not to overturn the market, but merely to eliminate bias, whatever its sources.

> The Comparable Worth strategy can be seen as an attempt to bring wages of female-dominated jobs up to the going market wage rates for similar type work that is not female-dominated. Wages for female-dominated jobs are seen to be artificially depressed by discrimination. In this view it is not Comparable Worth that interferes with a free market, but discrimination. Given that there is discrimination in the labor market, which depresses the wages of women's jobs, intervention is necessary to remove discrimination and its effects. It is therefore unnecessary to have an alternative to market wages; it is necessary only to adjust them. A variety of mechanisms, particularly job evaluation systems, exist that can be used to adjust wages to remove the effects of discrimination.[11]

It would be virtually impossible for firms to establish wages with no reliance on the market, and pay equity activists have not asked employers to do so. They usually suggest that wages for predominantly male jobs be derived from prevailing market rates and be used as the baseline. Under this approach, wages for predominantly female jobs are raised to match those of similarly valued, predominantly male jobs. This, for example, was the remedy that Judge Jack Tanner ordered in Washington State.

For all of these reasons, it is incorrect to characterize pay equity as necessarily a full substitute for or alternative to market-based wages. Pay equity requires a wage structure that is not consistently marred or dented by wage depressions that are tied to gender or race. On top of such an equitable structure, it is possible to build in contingencies that permit an employer to respond legitimately and fairly to real shortages, to seniority requirements, to employment needs of a labor pool. But in its essence, the structure needs to be nondiscriminatory and, therefore, cannot be entirely market dependent.

Employers Respond Automatically and Uniformly to Market Forces

Pay equity advocates are beginning to believe that employers rely on and respond to market forces differently depending on the sex composition of the job for which wages are being set. In the area of supply and demand, an employer has choices in how to respond to a shortage of workers. The choices—relative to a shortage of nurses, for example—include temporarily absorbing the shortage, hiring temporary nurses, having the nurses who are employed work overtime, redesigning the workload, changing recruitment techniques, or possibly, raising wages. Pay equity advocates fear that the last choice—raising wages—is less likely to be used or will be used less quickly when the job is mostly female. They also fear that wages will be raised a smaller amount. The nurse shortage of several years ago was experienced by numerous metropolitan areas and led to a great variety of innovative recruitment techniques, including international forays to the Philippines and elsewhere. But wages did not increase as much or as quickly as might be expected.

The use of surveys to calculate prevailing wage rates is another example of how employers can incorporate bias into their reliance on the market. In West Virginia, for example, clerical workers are concerned that their large employer tends to survey lower paying firms in a smaller geographical area when the job in question is predominantly female or minority.

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[10] Heidi Hartmann and Don Treiman, *Women, Work, and Wages: Equal Pay for Jobs of Equal Value* (National Academy of Sciences, 1981), p. 65.

[11] Hartmann, "The Case for Comparable Worth," p. 11.

As pay equity activists begin to research seriously the wage-setting procedures in their places of employment, they are finding that employers have latitude in responding to and relying on the market and that it is too often exercised to the disadvantage of the predominantly female jobs.

Wages Are Set by Employers Exclusively and Directly on the Basis of Prevailing Wage Rates

Many employers use a combination of standards to determine wages. These include prevailing wage rates, job evaluation systems, and subjective judgments about the worth of a job. Some employers, such as Washington State, select a limited number of jobs whose wages are directly tied to the market. These are called benchmarks, and other jobs are then slotted into place. Slotting is sometimes accomplished formally through the use of a job evaluation system and sometimes informally through the personal judgments of those doing the slotting. The number of employers who tie every job classification directly to the market is probably a distinct minority.

It has been estimated that 60–65 percent of all public and private employers use job evaluation systems. They are standard management tools that permit the internal ranking of job classifications on the basis of worth for purposes of salary setting. They have been used by public and private employers to meet considerations of internal equity, to provide rationality and justification to the wage hierarchy, and to make it unnecessary to perform wage surveys for every job classification.

Some employers rely primarily on their own judgments concerning the value of a job. The judgments determine wages when there is no formal system, but sometimes the subjective judgment takes precedence over formal findings. In *IUE v. Westinghouse,* for example, the court ruled that Westinghouse had discriminated because it ignored the findings of its own point ratings and reduced wages for women's jobs, offering stereotypic judgments about women as justification.

The Cost of Implementing and Not Implementing Pay Equity

There are no sound estimates of the overall implementation costs of pay equity in the United States. As individual employers begin to implement pay equity and to complete pay equity job evaluation studies, workplace by workplace costs and most estimates are becoming known.

In Minnesota, implementation will cost 0.3 percent of the total biennial budget. It costs 4 percent of the State's annual payroll budget, and the State determined it could afford this at 1 percent a year for each of 4 years. In spring 1983, $21.8 million was appropriated for the first 2 years.

In Washington State, the implementation ordered by Judge Tanner will cost approximately 1 percent of the State's budget. However, on top of this will be the backpay award ordered by the court of approximately $500 million.

The primary reason for the cost difference between the two States is that Minnesota voluntarily identified discrimination in its civil service system and voluntarily decided to eliminate it. Washington State also voluntarily identified discrimination in its civil service system. This was first done in 1974. Unfortunately, despite several followup studies with the same findings of discrimination, the State refused to implement pay equity. It risked a lawsuit, lost, and was ordered to raise wages and provide backpay.

Given that wage discrimination is illegal, the most fiscally responsible route for an employer to take is voluntary compliance. This avoids long, expensive court battles and backpay awards. It allows an employer to stay in more control of the process and more effectively plan for orderly implementation.

It should be noted that because so little is known about the cost of implementing pay equity, the National Committee on Pay Equity is surveying all employers who have begun implementation and all employers who have estimates of cost based on completed pay equity job evaluation studies.

In 1982 full-time, year-round working women were paid 61 cents relative to every dollar of their male counterparts. In 1980 the equivalent figures were 56 cents in the private sector, 62.8 cents in the Federal sector, and 71.5 cents in State and local government.[12] In table 1, these figures are broken down by race and ethnicity.

These statistics indicate that the greatest expense, on the average, will be in private firms, followed by the Federal Government and then by State and local governments. But cost will vary workplace by workplace. For example, according to the Communications Workers of America (CWA), AFL–CIO,

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[12] *The Wage Gap: Myths and Facts.*

Table 1
Mean Earnings of Year-Round, Full-Time Workers by Work Experience, Sex, and Race as a Percentage of the Earnings of Men of All Races, 1980
Mean earnings as a percentage of the earnings of all men

Work experience	All men	White men	Black men	Hispanic men	All women	White women	Black women	Hispanic women
Federal government	$24,050	103.1	80.8	90.7	62.8	63.1	62.2	N/A
State & local government	18,748	102.5	76.0	82.8	71.5	72.7	64.8	62.9
Private wage & salary	21,011	102.9	68.1	72.1	56.0	56.8	50.2	47.9

Source: *The Wage Gap: Myths and Facts*, National Committee on Pay Equity, 1983.

women earned 78 cents for every man's dollar at AT&T in the late 1970s. A Midwestern State preparing for a possible job evaluation study found that full-time, year-round women in State employment earn approximately 85 cents for every man's dollar.

The elimination of wage discrimination against women and men who work in predominantly female jobs will cost money. The single most important step an employer can take to contain costs is to act quickly and voluntarily. But in any case, to paraphrase Winn Newman, the cost of correcting discrimination is no excuse or defense for breaking the law. Society makes regular judgments through the laws it makes about which corners may and may not be cut to save money. It has decided that money cannot be taken from the paychecks of women and used in other ways.

The Role of Government in Eliminating Wage Discrimination

Federal Government Activities

The Civil Rights Act forbids discrimination in compensation when the jobs in question are equal and when they are comparable. The law, which celebrates its 20th anniversary this year, is sufficient. No new Federal legislation of this sort is necessary.

Unfortunately, however, the Equal Employment Opportunity Commission (EEOC) is not adequately meeting its statutory obligation to enforce the law. Pay equity charges have been warehoused; no litigation is taking place in this area; and existing EEOC policy, first adopted in September 1981, which gives guidelines on how to investigate wage discrimination charges, is not being followed or enforced. The National Committee on Pay Equity has recommended that the EEOC take concrete steps in these directions. This document is in the appendix to this paper.

About the time of the congressional oversight hearings on the EEOC and pay equity that were held by Congressman Barney Frank (D-Mass.) in 1984, EEOC Chair Clarence Thomas announced that he had established a task force in headquarters that would review the backlog of charges, search for a litigation vehicle, and develop policy. The review of charges, assuming it is thorough and accurate, is long overdue, as are efforts to litigate in this important area. The development of new policy may be unnecessary, given that Commission policy already exists, and could easily become another excuse for postponing antidiscrimination actions.

These failures on the part of the executive branch of the Federal Government have provoked Congress, private citizens, and private organizations to take initiatives. Members of Congress have held hearings on the EEOC's role, introduced a resolution criticizing Federal enforcement agencies, and introduced legislation to give specific direction to enforcement agencies. Of particular note are House and Senate resolutions that call for a pilot pay equity job evaluation study of the Federal Government.

Private individuals and organizations are lobbying the EEOC and Congress for more enforcement. They are also assuming the expense of filing their own pay equity charges and lawsuits. Discrimination charges have been filed against Illinois, Hawaii, Los Angeles, Chicago, Philadelphia, Fairfax County (Va.), St. Louis Post-Dispatch, and elsewhere. Lawsuits have been filed against Michigan Bell and Nassau County (N.Y.).

State and Local Government Activities

In large part because of the inaction of the Federal Government, the balance of pay equity activities shifted to State and local levels over the past 3 to 4 years. They have become the most productive areas. Well over 100 efforts have taken place in more than 30 States, with more now on the way.[13] The overwhelming majority of these apply only to the employers of the government taking action. They have occurred through collective bargaining, executive order, legislative action, and personnel department action. State, county, municipal, and school board governments have:

- Held hearings and collected data on job segregation and the wage gap;
- Mandated and funded pay equity job evaluation studies;
- Amended civil service policies to require pay equity; and
- Enforced existing laws, such as equal and fair employment practice laws, to provide pay equity.

Pennsylvania is the only State seriously considering an amendment to State law specifically to forbid wage discrimination among comparable jobs in the private sector. This is still pending. Minnesota is the only State to pass legislation requiring that local governments move to pay equity. This passed in April 1984.

All of these victories have made pay equity activists determined to move more often and more quickly from pay equity policies and studies to implementation. Minnesota is the only State to adopt fully an implementation plan. New Mexico's legislation allocated $33 million to upgrade the 3,000 lowest paid jobs in the State government, 86 percent occupied by women, before the results of its job evaluation study. Connecticut public employee unions have negotiated small pay equity funds pending study results. Washington State has been ordered to implement pay equity by a judge. Months before the trial, and 9 years after the first study, the Washington Legislature allocated $1.5 million to begin upgrading.

There are additional partial and full implementations that have taken place at the municipal level.

What the Government Should Do

Many people may think that the most effective, fiscally sound, and least disruptive approach to eliminating discrimination is voluntary compliance. But if voluntary compliance is to work, the Federal Government must provide strict law enforcement.

A few public employers are now taking this route, but virtually no private employers appear to be. AT&T and CWA negotiated a joint labor-management committee that developed and field tested a job evaluation system in 1980–83. The 1983 contract calls for joint committees in all operating and other AT&T companies to develop systems. But no implementation of the plan or pay equity has yet occurred. Westinghouse, General Electric, and Charley Brothers have begun to implement pay equity because of lawsuits that they lost or that led to settlements. If private employers are engaging in voluntary compliance, they are keeping it a big secret. Employers have stated that voluntary compliance requires incentive and that the best incentive is strict enforcement of the law. Since this is not taking place, it should come as no surprise that there are so few private sector initiatives.

With the accumulation of preliminary victories in cities and States, activists will be turning to the EEOC directly and through their elected representatives for assistance, enforcement, and litigation. There are activists in every State, and their numbers, enthusiasm, and determination are growing. They see progress in virtually every tactical area, except the Federal Government's enforcement of laws already on the books. The legal victories, particularly in *Gunther* and *Washington State*, have given people confidence that although pay equity is a moral, social, political, and personal right, it is also a legal right.

The Federal Government's role does not require it to develop a master job evaluation plan for all workplaces. This will take place workplace by workplace as it does now. Of course, it does not require establishing wage boards to determine wages. But the role of the Federal Government does require an executive branch commitment to enforcing laws that Congress has passed and a previous President has signed into law.

Conclusion

Pay equity is one of the most fundamentally democratic women's issues to appear in the past 15 years. It will help the many, not the few, and the needy more than the privileged. It is also an issue at the intersection of economic and personal concerns; that is, it promises an end to unnecessarily low wages, but also expresses a new respect for much of the work that women do in this society.

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[13] *Who's Working for Working Women: A Survey of State and Local Government Initiatives* (National Committee on Pay Equity, 1984, forthcoming).

The powerful sentiments that have carried pay equity this far will carry it further. But the elimination of this type of wage discrimination, which runs deep and deprives many, will be easier, faster, and less expensive if the Federal Government can be counted on as an ally in enforcing its own laws.

[FACSIMILE]

RECOMMENDATIONS FOR ACTIONS ELECTED AND APPOINTED OFFICIALS CAN TAKE TO ACHIEVE PAY EQUITY

Approved May, 1983 by Membership of the National Committee on Pay Equity

1. Enforcement—including lawsuits—of Title VII of the Civil Rights Act of 1964 and Executive Order 11246, the federal statutes that prohibit wage discrimination on the basis of sex, race or national origin, especially involving jobs predominantly occupied by females and minorities.
2. Appointment of staff and officials who are committed to full enforcement of the Civil Rights Act and the Executive Order to positions in enforcement, personnel and budget agencies at local, state and federal levels, including positions in the U.S. Department of Justice, Office of Federal Contract Compliance Programs, Equal Employment Opportunity Commission and the Office of Personnel Management.
3. Implementation of pay equity for federal employees as mandated by the Civil Service Reform Act of 1978 in conjunction with federal labor unions. Opposition to the U.S. Office of Personnel Management's present efforts to downgrade jobs held predominantly by women. Provision of necessary funds to implement pay equity in the federal government.
4. Implementation of pay equity in state and local governments through collective bargaining, joint labor-management job evaluation studies, enforcement of existing laws which prohibit wage discrimination or enactment of new legislation. Provision of the necessary funds to achieve pay equity.
5. Appointment of expert legislative and administrative staff who are knowledgeable about relevant economic, employment and training issues relating to pay equity.
6. Establishment of policy of pay equity in all employment and training programs to insure that female dominated jobs receive appropriate salaries.
7. Involvement of labor unions and advocacy groups in enforcement agency efforts to eliminate wage discrimination.
8. Encouragement of private employers to undertake voluntary compliance programs to achieve pay equity. Initiation of lawsuits and all other appropriate action if employers refuse.
9. Education of the public about pay equity and the need for enforcement of wage discrimination laws through speeches, publications, conferences, and all other appropriate avenues.

.Summary of Recommendations to the Equal Employment Opportunity Commission (EEOC)

(Adopted by the Members of the National Committee on Pay Equity, January 1984)

Title VII of the Civil Rights Act of 1964 prohibits "discrimination in compensation" on the basis of sex, race, color, national origin and religion.

In 1981, the Supreme Court affirmed in *Gunther v. County of Washington* that Title VII does indeed mean what it says, that wage discrimination based on sex is illegal even if the jobs being compared are not the same.

The National Committee on Pay Equity believes the EEOC, which is mandated by law to enforce Title VII's prohibition against wage discrimination, is not meeting its statutory obligation to enforce the law and has failed to provide the guidance and leaderhip which Title VII demands of it.

We therefore strongly urge the EEOC to undertake the following steps immediately to assure that wage discrimination investigations and litigation under Title VII move forward promptly, decisively and equitably.

1. **The Commission should vigorously enforce its own policy**—known as the "90-day notice"—**adopted on September 15,**1981 (after the Supreme Court decision in *Gunther)***to provide interim guidance to field officers on identifying and processing sex-based wage discrimination charges under Title VII and the Equal Pay Act.**The policy should be reviewed and clarified periodically in order that wage discrimination charges be investigated fully.
2. **The Commission should give specialized review and processing to wage discrimination charges.**This includes but is not limited to:
    - a. Proper training of field personnel in regional EEOC offices in the identification of wage discrimination charges;
    - b. Establishing tight time frames for review and processing of these charges; and
    - c. Monitoring by the appropriate staff at EEOC headquarters in Washington, D.C. to ensure that time frames are being met.
3. **The Commission should establish a mechanism to ensure that wage discrimination charges received by field offices are referred to EEOC headquarters, as dictated by the notice, so that proper monitoring can take place.**Field offices should be assessed on the basis of numbers of wage discrimination charges which are processed.
4. **The Commission should provide, on a quarterly basis, information to the National Committee on Pay Equity regarding wage discrimination charges and cases.**This should include the numbers of charges, field regions in which they are filed and names of cases that the EEOC has decided to pursue. In addition, the EEOC should provide the National Committee with information on Equal Pay Act charges and cases.
5. **The Commission should establish an EEOC Headquarters Task Force**whose functions include:
    - a) Targeting of wage discrimination cases as part of the early litigation program and as part of the systemic program so that all appropriate litigation avenues are pursued in a timely way;
    - b) Coordination with the EEOC's National Litigation Plan so that wage discrimination will become a litigation priority for the Commission; and

c) Designation of an individual or individuals in EEOC Headquarters who would be responsible for review of all wage discrimination cases.

We urge members and friends of the National Committee to encourage enforcement of the law by presenting these recommendations to their elected national officials and to EEOC officials in Washington, D.C. and regional areas.

An Argument Against Comparable Worth

By June O'Neill[*]

The traditional goal of feminists has been equal opportunity for women—the opportunity for women to gain access to the schools, training, and jobs they choose to enter, on the same basis as men. This goal, however, basically accepts the rules of the game as they operate in a market economy. In fact the thrust has been to improve the way the market functions by removing discriminatory barriers that restrict the free supply of workers to jobs. By contrast, the more recent policy of "comparable worth" would dispense with the rules of the game. In place of the goal of equality of opportunity it would substitute a demand for equality of results, and it would do this essentially through regulation and legislation. It proposes, therefore, a radical departure from the economic system we now have, and so should be scrutinized with the greatest care.

The topics I will cover in this paper and the main points I will make are as follows:

1. The concept of comparable worth rests on a misunderstanding of the role of wages and prices in the economy.
2. The premises on which a comparable worth policy is based reflect a misconception about the reasons why women and men are in different occupations and have different earnings. Both the occupational differences and the pay gap to a large extent are the result of differences in the roles of women and men in the family and the effects these role differences have on the accumulation of skills and other job choices that affect pay. Discrimination by employers may account for some of the occupational differences, but it does not, as comparable worth advocates claim, lower wages directly in women's occupations.
3. Comparable worth, if implemented, would lead to capricious wage differentials, resulting in unintended shortages and surpluses of workers in different occupations with accompanying unemployment. Moreover, it would encourage women to remain in traditional occupations.
4. Policies are available that can be better targeted than comparable worth on any existing discriminatory or other barriers. These policies include the equal employment and pay legislation now on the books.

The Concept of Comparable Worth

By comparable worth I mean the view that employers should base compensation on the inherent value of a job rather than on strictly market considerations. It is not a new idea—since the time of St. Thomas Aquinas, the concept of the "just price," or payment for value, has had considerable appeal. Practical considerations, however, have won out over metaphysics. In a free market, wages and prices are not taken as judgments of the inherent value of the worker or the good itself, but reflect a balancing of what people are willing to pay for the services of these goods with how much it costs to supply them. Market prices are the efficient signals that balance supply and demand. Thus, in product markets we do not require that a pound of soybeans be more expensive than a pound of Belgian chocolates because it is more nutritious, or that the price of water be higher than that of diamonds because it is so much more important to our survival. If asked what the proper scale of prices should be for these products, most people—at least those who have taken Economics I—would give the sensible answer that there is no proper scale—it all depends on the tastes and needs of millions of consumers and the various conditions that determine the costs of production and the supplies of these products.

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[*] The Urban Institute, Washington, D.C.

What is true of the product market is equally true of the labor market. There is simply no independent scientific way to determine what pay should be in a particular occupation without recourse to the market. Job skills have "costs of production" such as formal schooling and on-the-job training. Different jobs also have different amenities that may be more or less costly for the employer to provide—for example, part-time work, safe work, flexible hours, or a pleasant ambience. And individuals vary in their talents and tastes for acquiring skills and performing different tasks. The skills required change over time as the demand for products changes and as different techniques of production are introduced. And these changes may vary by geographic region. In a market system, these changing conditions are reflected in changing wage rates, which in turn provide workers with the incentive to acquire new skills or to migrate to different regions.

The wage pattern that is the net outcome of these forces need not conform to anyone's independent judgment based on preconceived notions of comparability or of relative desirability. The clergy, for example, earn about 30 percent less than brickmasons.[1] Yet the clergy are largely college graduates; the brickmasons are not. Both occupations are more than 95 percent male—so one cannot point to sex discrimination. Possibly the reason for the wage disparity lies in unusual union power of construction workers and is an example of market imperfections. But other explanations are possible too. The real compensation to the clergy, for example, may include housing and spiritual satisfaction as fringe benefits. On the other hand, the high risk of unemployment and exposure to hazards of brickmasons may be reflected in additional monetary payments. If enough people require premiums to become brickmasons and are willing to settle for nonmonetary rewards to work as clergy, and if the buyers of homes are willing to pay the higher costs of brickmasons, while churchgoers are satisfied with the number and quality of clergy who apply, the market solution may well be satisfactory.[2]

One can also think of examples of jobs that initially may seem quite comparable but that would not command the same wage, even in nondiscriminatory and competitive markets. The following example is based on a case that has been used before, but it illustrates the point so well it bears repeating.[3] Consider two jobs—one a Spanish-English translator and the other a French-English translator. Most job evaluators would probably conclude that these jobs are highly comparable and should be paid the same. After all, the skills required, the mental demands, the working conditions, and responsibility would seem to be nearly identical. But "nearly" is not equal, and the difference in language may in fact give rise to a legitimate pay differential. The demand for the two languages may differ—for example, if trade with Spanish-speaking countries is greater. But the supply of Spanish-English translators may also be greater. And this would vary by geographic area. It would be difficult to predict which job will require the higher wage and by how much in order to balance supply and demand.

What the market does is to process the scarcity of talents, the talents of heterogeneous individuals and the demands of business and consumers in arriving at a wage. The net outcome would only coincidentally be the same as a comparable worth determination. There are simply too many factors interacting in highly complex ways for a study to find the market clearing wage.

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[1] These statistics are based on the median hourly earnings of workers in these occupations in 1981. Rytina, 1982.

[2] If brickmasons' wages are artificially high because of union power, the market would be unstable. More workers would desire to be brickmasons than would be hired at the artificially high wage. Would comparable worth policy help the situation? Not likely. A comparable worth solution would likely require higher pay for clergy than for brickmasons because of the heavy weight placed on readily measured items like education. A wage for clergy that is too high would also be unstable. Only the removal of the union power or restrictions on unions would satisfactorily resolve the issue.

[3] This example was originated by Sharon Smith and described in Killingsworth (1984), who notes it is cited in Gold (1983).

Why Abandon the Market?

The argument for abandoning market determination of wages and substituting "comparable worth," where wage decisions would be based on an independent assessment of the "value" of occupations, is based on the following premises: (1) the pay gap between women and men is due to discrimination and has failed to narrow over time; (2) this discrimination takes the form of occupational segregation, where women are relegated to low-paying jobs; and (3) pay in these female-dominated occupations is low simply because women hold them.

The Pay Gap

In 1983 the pay gap, viewed as the ratio of women's to men's hourly pay, was about 72 percent overall (table 1).[4] Among younger groups the ratio is higher (and the pay gap smaller)—a ratio of 89 percent for 20–24-year-olds and 80 percent for the age 25–34 years old. Among groups age 35 and over the ratio is about 65 percent.

What accounts for the pay gap? Clearly, not all differentials reflect discrimination. Several minorities (Japanese and Jewish Americans, for example) have higher than average wages, and I do not believe anyone would ascribe these differentials to favoritism towards these groups and discrimination against others.

A growing body of research has attempted to account for the pay gap, and the researchers have come to different conclusions. These studies, however, use different data sources, refer to different populations and control for many, but not always the same set of variables. Even the gross wage gap—the hourly earnings differential before adjusting for diverse characteristics—varies from study to study, ranging from 45 to 7 percent depending on the type of population considered. Studies based on national samples covering the full age range tend to show a gross wage gap of 35 to 40 percent. Studies based on more homogeneous groups, such as holders of advanced degrees or those in specific professions, have found considerably smaller gross wage gaps.

After adjusting for various characteristics, the wage gap narrows. Generally, the most important variables contributing to the adjustment are those that measure the total number of years of work experience, the years of tenure on current job, and the pattern or continuity of previous work experience.

Traditional home responsibilities of married women have been an obstacle to their full commitment to a career. Although women are now combining work and marriage to a much greater extent than in the past, older women in the labor force today have typically spent many years out of the labor force raising their families. Data from the National Longitudinal Survey (NLS) indicate that in 1977 employed white women in their forties had worked only 61 percent of the years after leaving school, and employed black women had worked 68 percent of the years.[5] By contrast, men are usually in the labor force or the military on a continuing basis after leaving school.

In a recent study I examined the contribution of lifetime work experience and other variables using the NLS data for men and woman aged 25 to 34. White women's hourly wage rate was found to be 66 percent of white men's—a wage gap of 34 percent. This wage gap narrowed to 12 percent after accounting for the effects of male-female differences in work experience, job tenure, and schooling, as well as differences in plant size and certain job characteristics, such as the years of training required to learn a skill, whether the occupation was hazardous, and whether the occupation had a high concentration of women.

The gross wage gap between black men and black women was 18 percent. The gross wage gap was smaller for blacks than for whites because job-related characteristics of black women and black men are closer than those of white women and white men. Black women have somewhat fewer years of work experience in their teens and early twenties than white women, which may be related to earlier childbearing. They are more likely to work continu-

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[4] The commonly cited pay gap—where women are said to earn 59 cents out of every dollar earned by men—is based on a comparison of the annual earnings of women and men who work year round and are primarily full time. In 1982 this ratio was 62 percent. This figure is lower than the figure of 72 percent cited above because the annual earnings measure is not adjusted for differences in hours worked during the year, and men are more likely than women to work overtime or on second jobs.

[5] O'Neill, 1984.

Table 1

Female-Male Ratios of Median Usual Weekly Earnings of Full-Time Wage and Salary Workers, by Age, 1971–1983

I. Unadjusted Ratios

Year								2nd	Annual average		
	May	May	May	May	May	May	May	quarter			
Age	1971	1973	1974	1975	1976	1977	1978	1979	1979	1982	1983
Total, 16 years and over	.62	.62	.61	.62	.61	.61	.61	.62	.62	.65	.66
16–19	.89	.82	.82	.86	.86	.88	.86	.85	.87	.88	.94
20–24	.78	.77	.76	.76	.80	.78	.75	.75	.76	.83	.84
25–34	.65	.64	.65	.66	.67	.65	.66	.67	.66	.72	.73
35–44	.59	.54	.55	.57	.55	.56	.53	.58	.58	.60	.60
45–54	.57	.57	.57	.59	.57	.56	.54	.57	.56	.59	.58
55–64	.62	.63	.60	.63	.61	.59	.60	.60	.58	.60	.62

II. Adjusted for Male-Female Differences in Full-Time Hours[1]

Year								2nd	Annual average		
	May	May	May	May	May	May	May	quarter			
Age	1971	1973	1974	1975	1976	1977	1978	1979	1979	1982	1983
Total, 16 years and over	.68	.68	.67	.68	.68	.67	.67	.68	.68	.71	.72
16–19	.94	.86	.87	.90	.90	.92	.91	.90	.92	.91	.96
20–24	.85	.83	.82	.82	.86	.84	.80	.81	.82	.88	.89
25–34	.73	.72	.72	.73	.74	.72	.73	.74	.73	.79	.80
35–44	.66	.61	.61	.63	.61	.62	.59	.64	.64	.66	.66
45–54	.62	.62	.62	.63	.62	.61	.59	.63	.61	.64	.63
55–64	.67	.69	.65	.67	.67	.65	.65	.66	.64	.65	.67

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[1] Female-male earnings ratios were adjusted for differences in hours worked by multiplying by age-specific male-female ratios of average hours worked per week (for nonagricultural workers on full-time schedules).

Source: Earnings by age and sex are from unpublished tabulations from the Current Population Survey provided by the Bureau of Labor Statistics, U.S. Department of Labor. Hours data are from U.S. Bureau of Labor Statistics, Employment and Earnings series, January issues, annual averages.

ously and full time later on, however, and thus accumulate more total work experience and longer tenure on their current jobs than white women. The adjustment for differences in the measured characteristics cited above narrowed the wage gap of black men and women to 9 percent.

Are the remaining, unaccounted-for differences a measure of discrimination in the labor market?

If all the productivity differences between women and men are not accurately identified and measured, labor market discrimination would be overestimated by the unexplained residual. Many variables were omitted from this analysis and from other studies because relevant data are not available. These include details on the quality and vocational orientation of education; on the extent of other work-related investments, such as job search; and on less tangible factors, such as motivation and effort. Differences in these factors could arise from the priority placed on earning an income versus fulfilling home responsibilities. If women, by tradition, assume the primary responsibility for homemaking and raising children, they may be reluctant to take jobs that demand an intense work commitment.

On the other hand, the unexplained residual may underestimate discrimination if some of the included variables, such as years of training to learn a job, or the sex typicality of occupations, partially reflect labor market discrimination. Some employers may deny women entry into lengthy training programs or be reluctant to hire them in traditionally male jobs. It is difficult with available data to distinguish this situation from one wh[illegible] women choose not to engage in training because of uncertainty about their long-run career plans or choose female occupations because they are more compatible with competing responsibilities at home.

Occupational Segregation

Although occupational segregation clearly exists, it is in large part the result of many of the same factors that determine earnings: years of schooling, on-the-job training, and other human capital investments, as well as tastes for particular job characteristics. In a recently completed study, I found that women's early expectations about their future life's work—that is, whether they planned to be a homemaker or planned to work outside the home—are strongly related to the occupations they ultimately pursue.[6] Many women who initially planned to be homemakers, in fact, became labor force participants, but they were much more likely to pursue stereotyped female occupations than women who had formed their plans to work at younger ages. Early orientation influences early training and schooling decisions, and as a result women may be locked into or out of certain careers. Some women, however, by choice, maintain an ongoing dual career—combining work in the home with an outside job—and this leads to an accommodation in terms of the number of hours that women work and other conditions that influence occupational choice.

Women and men were also found to differ sharply in the environmental characteristics of their occupations. Women were less likely to be in jobs with a high incidence of outdoor work, noisy or hazardous work, or jobs requiring heavy lifting. These differences may reflect employer prejudice or the hostile attitudes of male coworkers, but they may also reflect cultural and physical differences.

In sum, a substantial amount of the differences in wages and in occupations by sex has been statistically linked to investments in work skills acquired in school or on the job. Varied interpretations of these results are possible, however. Thus, the precise amount that can be labeled as the result of choices made by women and their families rather than the result of discrimination by employers is not known.

The Trend in the Pay Gap

A major source of frustration to feminists and a puzzle to researchers has been the failure of the gap to narrow over the post-World War II period, despite large increases in women's labor force participation. In fact, the gap in 1982 is somewhat larger than it was in 1955.

The wage gap would not, however, narrow significantly over time unless the productivity or skill of women in the labor force increased relative to men's, or discrimination in the workplace diminished. Because the gross wage gap widened somewhat after 1955, either discrimination increased or women's skills decreased relative to men's. Findings from a recent study suggest that changes in skill, as measured by the changes in the education and work experience of men and women in the labor force, strongly contributed to an increase in the wage gap.[7]

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[6] O'Neill, 1983.

In 1952 women in the labor force had completed 1.6 more years of schooling than men. This difference narrowed sharply so that by 1979 it had disappeared. One reason for this is that the educational level of men advanced more rapidly than that of women during the 1950s. Aided by the GI bill educational benefits, more men attended college. Another reason is that the labor force participation of less educated women increased more rapidly than the participation of highly educated women. Thus, the female labor force became increasingly less selective over time in terms of schooling attainment.

The rise in the number of women in the labor force may also have had an effect on the lifetime work experience of the average working women. A large number of less experienced women entering the labor force may have diluted the experience level of the working women. Although the total number of years of work experience of women is not available for periods of time before the late 1960s, data on job tenure—years with current employer—show that in 1951 men's job tenure exceeded women's job tenure by 1.7 years. This difference widened to 2.7 years in 1962 and then slowly decined, reaching 1.9 years in 1978 and 1.5 years in 1981.

The decline in working women's educational level relative to men's alone would have caused the pay gap to widen by 7 percentage points. The initial widening in the job tenure differential contributed another 2 percentage points to the gap. Together the change in education and job tenure would have increased the wage gap by more than it actually increased. Possibly then, discrimination declined during this period even though the wage gap widened. Since the mid-1960s, educational and work experience differences have moved in different directions. Male educational attainment rose slightly more than that of working women, which alone would have widened the pay gap slightly. Difference in work experience declined overall. Recently (between 1979 and 1983), a narrowing has occurred in the wage gap, from 68 percent to 72 percent overall.

Evidence from the NLS and other sources suggests that the pay gap is likely to narrow perceptibly in the next decade. Not only are young women working more continuously, but they are also getting higher pay for each year of work experience than they were in the late 1960s. This could reflect a reduction in sex discrimination by employers or a greater willingness of women to invest in market skills, or both. Women's career expectations also seem to be rising. In response to an NLS question asked in 1973, 57 percent of women between 25 and 29 indicated their intention to hold jobs rather than be homemakers when they reach age 35. Among women reaching ages 25 to 29 in 1978, 77 percent expressed their intention to work.

Young women have also greatly increased their educational level relative to men. Female college enrollment increased significantly during the 1970s, while male enrollment fell between 1975 and 1980. Moreover, women have made impressive gains in professional degrees during the 1970s. Work roles and work expectations of women and men may well be merging. As these younger women become a larger component of the female labor force, it is anticipated that the overall wage gap will be reduced.

Are Women's Occupations Underpaid?

A major contention of comparable worth supporters is that pay in women's occupations is lower because employers systematically downgrade them. The argument differs from the idea that pay in women's occupations is depressed because of an oversupply to these occupations. An oversupply could arise either because large numbers of women entering the labor force choose these occupations (which is compatible with no discrimination) or because women are barred from some causing an oversupply in others (a discriminatory situation). Although comparable worth advocates have taken the view that overcrowding is caused by restrictive measures, they have lately come to believe that this explanation is not the whole cause of "low payment" in women's jobs.[8] The argument is made that employers can pay less to women's jobs regardless of supply considerations, simply reflecting prejudice against such jobs because they are held by women.

The ability of firms to wield such power is highly questionable. If a firm underpaid workers in women's occupations, in the sense that their wages were held below their real contributions to the firm's receipts, other firms would have a strong incentive to hire workers in these occupations away, bidding up the wages in these occupations. Thus, competition would appear to be a force curtailing employer power. This process could only be thwarted by collusion, an unrealistic prospect considering the hundreds of thousands of firms.

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[7] O'Neill, 1984.

[8] Hartmann, 1983.

Killingsworth (1983) has suggested that the market for nurses may be an example of collusion by a centralized hospital industry that has conspired to hold wages down. Without more careful analysis of the hospital industry, it is difficult to verify whether this is a valid hypothesis. Basic facts about wages and supply in nursing, however, suggest that collusion either does not exist or is ineffective. Despite a perennial "shortage" of nurses that seems to have existed as far back as one can go, the number of nurses has increased dramatically, both absolutely and as a percentage of the population. In 1960 there were 282 registered nurses per 100,000 population. In 1980 there were 506 nurses per 100,000. This rate of increase is even more rapid than the increase in doctors over the past decade, and the supply of doctors has been rapidly increasing. Why did the increase occur? Were women forced into nursing because they were barred from other occupations? That does not seem to be the case in recent times. What has happened is that nursing, along with other medical professions, has experienced a large increase in demand since the middle 1960s when medicare and medicaid were introduced, and private health insurance increased. As a result, the pay of nurses increased more rapidly than in other fields. Between 1960 and 1978 the salary of registered nurses increased by 250 percent, while the pay of all men rose by 206 percent and the pay of all women rose by 193 percent. During the 1970s the rate of pay increase for nurses slowed, which is not surprising considering the increase in supply. And entry of women into nursing school has recently slowed, suggesting a self-correcting mechanism is at work.

Another way to attempt to evaluate the contention that lower pay in female-dominated occupations reflects discrimination is through statistical analysis of the determinants of earnings in occupations. In a recent study, I asked the question—after accounting for measurable differences in skill, do these predominantly female occupations still pay less? In an analysis of data on more than 300 occupations, I found that after adjusting for schooling, training, part-time work, and environmental conditions (but not actual years of work experience or job tenure, which were not available), the proportion female in an occupation was associated with lower pay in that occupation for both women and for men. But the effect was not large. For each 10 percentage point increase in the percent female in an occupation, the wage in the occupation went down by 1.5 percent. Again, however, one is left with a question mark. Are there other characteristics of occupations that women, on the average, may value more highly than men because of home responsibilities or differences in tastes and for which women, more so than men, are willing to accept a lower wage in exchange? Characteristics that come to mind might be a long summer vacation, such as teaching provides, or a steady 9 to 5 job close to home that certain office or shop jobs may provide. The true effect of sex on occupational differences or wage rates is, therefore, another unresolved issue. There are many good reasons why women would be in lower paying occupations than men, even in the absence of sex discrimination on the part of employers. That does not rule out the existence of discrimination, but it weakens the case for seeking an alternative to the market determination of occupational wage rates.

Comparable Worth in Practice—The Washington State Example

What would happen if wages were set in accordance with comparable worth standards and independently of market forces? Any large-scale implementation of comparable worth would necessarily be based on job evaluations that assign points for various factors believed to be common to disparate jobs. For example, in the State of Washington, where a comparable worth study was commissioned, a job evaluation firm assisted a committee of 13 politically chosen individuals in rating the jobs used as benchmarks in setting pay in State employment. The committee's task was to assign points on the basis of knowledge and skills, mental demands, accountability, and working conditions. In the 1976 evaluation a registered nurse at level IV was assigned 573 points, the highest number of points of any job—280 points for knowledge and skills, 122 for mental demands, 160 for accountability, and 11 for working conditions. A computer systems analyst at the IV level received a total of only 426 points—212 points for knowledge and skills, 92 points for mental demands, 122 points for accountability, and no points for working conditions. In the market, however, computer systems analysts are among the highest paid workers. National data for 1981 show that they earn 56 percent more than registered nurses. The Washington job evaluation similarly differs radically from the market in its assessment of the value of occupations throughout the job schedule. A clerical supervisor is rated equal to a chemist in knowledge and skills and mental demands, but higher than the chemist in accountability, thereby receiving more total points. Yet the market rewards chemists [illegible] percent higher pay. The evaluation assigns an electrician the same points for knowledge and skills and mental demands as a level I secretary and 5 points less for accountability. Auto mechanics are assigned lower points than the lowest level homemaker or practical nurse for accountability as well as for working conditions. Truckdrivers are ranked at the bottom, assigned lower points on knowledge and skills, mental demands, and accountability than the lowest ranked telephone operator or retail clerk. The market, however, pays truckdrivers 30 percent more than telephone operators, and the differential is wider for retail clerks.

Should the market pay according to the comparable worth scale? Or is the comparable worth scale faulty? In Washington State, AFSCME, the American Federation of State, County, and Municipal Employees, brought suit against the State on the grounds that failure to pay women according to the comparable worth scale constituted discrimination. Judge Jack E. Tanner agreed and ruled in favor of the union. The decision was based largely on the fact that the State had conducted the study. Whether or not the study was a reasonable standard for nondiscriminatory wage patterns was never an issue. The State, in fact, was disallowed from presenting a witness who would have critically evaluated the study.

What would happen if comparable worth were to be adopted as a pay-setting mechanism? Take the example of registered nurses and computer systems analysts. Nurses are 95 percent female; systems analysts are 25 percent female. If a private firm employing both occupations were required to adopt the rankings from the Washington State comparable worth study, it would likely have to make a significant pay adjustment. It could either lower the salary of systems analysts below that of nurses or raise the pay of nurses above systems analysts. If it lowered the pay of systems analysts, it would likely find it impossible to retain or recruit them. The more popular remedy would be to raise the pay of nurses. If the firm did so, it would also be compelled to raise its prices. Most likely, demand for the firm's product would fall, and the firm would of necessity be required to cut back production. It would seek ways of lowering costs—for example, by reducing the number of registered nurses it employed, trying to substitute less skilled practical nurses and orderlies where possible. Some women would benefit—those who keep their jobs at the higher pay. But other women would lose—those nurses who become unemployed, as well as other workers who are affected by the cutback.

Of course, if the employer is a State government, the scenario may be somewhat different. The public sector does not face the rigors of competition to the same extent as a private firm. I suspect this is one reason why public sector employees seem to be in the forefront of the comparable worth movement. The public sector could not force workers to work for them if the remedy was to lower the wage in high-paying male jobs. But that is not usually what employee groups request. It can, however, pay the bill for the higher pay required to upgrade wages in female-dominated occupations by raising taxes. But in the long run, the State may have financing problems, since taxpayers may not be willing to foot the bill, and the result would be similar to that in the private firm—unemployment of government workers, particularly women in predominantly female occupations, as government services are curtailed.

Concluding Remarks

Advocates of comparable worth see it as a way of raising women's economic status and, quite expectedly, tend to minimize costs. A typical comment is as follows (Center for Philosophy and Public Policy):

> Certainly, the costs incurred would vary widely depending on the scope of the approach chosen. But the economic costs of remedying overt discrimination should not prove staggering. Employers and business interests have a long history of protesting that fair treatment of workers will result in massive economic disruption. Similar claims were made preceding the abolishment of child labor and the establishment of the minimum wage, and none of the dire predictions came to pass.

Evidently the author is unaware of the numerous economic studies showing the disemployment effects of the minimum wage. However, what this statement fails to see is that comparable worth is in a bigger league than the child labor law or the minimum wage laws that have actually been implemented. It is far more radical. Instituting comparable worth by means of studies such as the one conducted in Washington State could be more like instituting a $15 an hour minimum wage or passing sweeping legislation like Prohibition. Moreover, the costs in terms of economic distortion would be much more profound than the dollars required to pay the bills. Curiously, this is recognized by one comparable worth proponent,[9] who then suggests "that we give very serious consideration to the idea that firms that do raise pay for 'disadvantaged occupations' get special tax incentives for capital equipment that will raise the productivity of these workers. We can't expect firms to swallow these losses; that's crazy." Barrett is willing to go to these lengths because she thinks it might be a way to raise the incomes of poor women heading families on welfare. Long-term welfare recipients, however, are not the women holding the jobs covered by comparable worth schemes. The work participation of women in this situation is very low. Moreover, the lesson of studies of minimum wage effects has been that those who are most vulnerable to disemployment as a result of wage hikes that exceed national market rates are the disadvantaged—those with little education, poor training, and little work experience. Comparable worth would hurt, not help, these women. Subsidies to try to prevent these effects from occurring would be impractical to implement and prohibitively costly.

With all the difficulties that would ensue from implementing comparable worth, it is striking that it would not achieve many of the original goals of the women's movement such as the representation of women as electricians, physicists, managers, or plumbers. In fact, it would likely retard the substantial progress that has been made in the past decade. Younger women have dramatically shifted their school training and occupational choices. They have been undertaking additional training and schooling because the higher pay they can obtain from the investment makes it worthwhile. Raising the pay of clerical jobs, teaching, and nursing above the market rates would make it less rewarding to prepare for other occupations and simply lead to an oversupply to women's fields, making it still harder to find a stable solution to the problem of occupational segregation.

Another byproduct of comparable worth is that it diverts attention away from the real problems of discrimination that may arise. Such problems need not be confined to women in traditional jobs. Pay differences between men and women performing the same job in the same firm at the same level of seniority may no longer be an important source of discrimination. The form discrimination more likely takes is through behavior that denies women entry into on-the-job training or promotions on the same basis as men. The obvious solution is the direct one—namely, allowing or encouraging women whose rights are being denied to bring suit. Existing laws were intended to cover this very type of problem.

The pay-setting procedure in all levels of government employment is another area where remedies other than comparable worth would be more direct and effective. Governments usually do not have the flexibility to meet market demands. The need to adhere to rigid rules under considerable political pressure may result in paying wages that are too high in some occupations and too low in others. (By "too high" I mean that an ample supply of workers could be obtained at a lower wage). This could occur if the private plants covered in a pay survey for a particular occupation are themselves paying above market—for example, as the result of a powerful union. Such a situation could lead to unnecessary pay differentials between certain ocupations that are male dominated (which are more likely to be represented by such strong unions) and other male, mixed, and female occupations whose private sector wages are more competitive. Comparable worth is not the solution, however, since it does not address the problem. Pay-setting procedures can be improved by changing the nature of the pay surveys and by introducing market criteria—for example, by considering the length of the queue to enter different government jobs and the length of time vacancies stay open. Such changes may help women and also improve the efficiency of government.

Dramatic changes have occurred in women's college enrollment, in labor force participation, and in entrance into formerly male occupations, particularly in the professions. These changes are taking place because of fundamental changes in women's role in the economy and in the family—changes that themselves reflect a response to rising wage rates as well as changing social attitudes. Pay set according to comparable worth would distort wage signals, inducing inappropriate supply response and unemployment. If women have been discouraged by society or barred by employers from entering certain occupations, the appropriate response is to remove the barriers, not try to repeal supply and demand. Comparable worth is no shortcut to equality.

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[9] Barrett, 1983.

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Comparable Worth as Civil Rights Policy: Potentials for Disaster

By Jeremy Rabkin*

I am grateful to the Commission for inviting me to participate in this consultation on "comparable worth." Like many observers, I believe that the movement for comparable worth regulation raises issues of more far-reaching importance than any others on the contemporary civil rights agenda. Indeed, these issues seem to me as urgent and troubling as any in the entire field of government regulation. I admire the current members of this Commission for their willingness to rethink many settled dogmas of civil rights policy, and I hope the Commission will be equally unflinching in its scrutiny of the movement for comparable worth regulation.

There is a great deal of uncertainty—and controversy—about the precise scope and nature of the problem that comparable worth measures are supposed to address. And there is, as well, much dispute about the extent to which this problem (if it is a problem) can be alleviated by more vigorous enforcement of existing antidiscrimination measures. These questions, however, are better left to economists, lawyers, and students of labor relations. As a political scientist and a student of civil rights regulation, I can more appropriately comment on the political and administrative difficulties likely to be encountered in any large-scale effort to implement comparable worth.

Specifically, I will focus here on three very large concerns about comparable worth as a government regulatory policy: first, the difficulty of limiting its jurisdiction or scope to a manageable portion of the labor market; second, the difficulty of securing either political consensus or administrative clarity about its operational goals; and finally, the difficulty of containing the bitterly divisive potential of such a program. As we have little direct experience with comparable worth enforcement to date, my elaboration of these concerns will necessarily be somewhat speculative. But I believe the logic of current proposals and the lessons of past experience with other programs are sufficiently suggestive of the dangers involved: taken together, these difficulties carry the potential for a full-scale disaster in social policy.

Jurisdiction: The Problem of Unmanageable Scope

There are millions, perhaps tens of millions, of distinguishable jobs in the American economy. Obviously, no government program will ever be large enough or efficient enough to evaluate the appropriate level of compensation for even a fraction of these jobs—even if the government is conceded to have some ready formula for determining "fair" payment in any particular circumstances. The Equal Employment Opportunity Commission (EEOC) was nearly brought to a standstill in the mid-1970s under the weight of 100,000 backlogged discrimination complaints. But surely it is far more common for people to claim they are "unfairly" underpaid in their current jobs than to charge they have failed to gain a job or a promotion because of discrimination. A comparable worth program would, therefore, be crushed beneath a caseload many times larger than the EEOC's if it could not find ways of limiting its jurisdiction.[1] Yet, given the character of the current movement for comparable worth regulation, it is hard to see how any resulting program could be confined to a jurisdiction of manageable scale. There is little reason to think that comparable worth policy can be limited to government employment. There is little reason to think it can be confined to jobs held by women. There is not even much assurance that it can be confined to occupations or job categories with a high degree of segregation by race or sex.

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* Assistant Professor of Government, Cornell University.

Thus far, the most prominent victories of the movement for comparable worth regulation have, in fact, involved government employees, at the State and local levels. Because it is less sensitive to competitive pressures and more sensitive to political threats, government employment has been a natural target for comparable worth advocates. But both the Supreme Court's decision in *Gunther*,[2] which seemed to open the door to comparable worth litigation, and Judge Tanner's recent decision in *AFSCME v. Washington*,[3] which applied the concept on a spectacular scale, were based on Title VII of the 1964 Civil Rights Act. And that statute, of course, bans discrimination in private as well as public employment. Even if the Supreme Court ultimately finds that Title VII itself does not cover pure comparable worth claims, it is unlikely that the advocates of additional legislation will be content with controls on government employment alone.

Thus, Senator Cranston's bill on this subject already proposes to reach deeply into private employment by imposing comparable worth requirements on all Federal contractors.[4] Several proposals now before various State legislatures also aim at control of private employment, and although others confine themselves to State jobs, these are probably best understood as interim steps in a larger program.[5] After all, the statistical and rhetorical claims fueling the comparable worth movement—for example, that women, on the average, earn only 60 percent as much as men—are based on generalizations about the entire economy, not merely its public sector. The private sector offers the largest potential opportunities in employment and income, and this is of overwhelming importance for a movement that prides itself on looking beyond abstract principles to the financial "bottom line." Finally, the major trends in civil rights regulation over the last 20 years confirm that "nondiscrimination" standards for the government are almost invariably applied in time to private institutions and private businesses.

For similar reasons, it is unlikely that comparable worth enforcement can be limited to jobs held by women; if Title VII is held to cover comparable worth claims in its present form, then the language of the statute will automatically make such claims available for racial, ethnic, and religious minorities. Even if new legislation is needed, it is virtually certain to cover racial discrimination and other bases of discrimination in pay, as Cranston's bill does, for example.[6] Historically, the women's movement has always sought to ally itself with the claims of racial minorities. Feminists will doubtless be especially eager to maintain a common political front with black leaders in regard to comparable worth, where expanding opportunities for women has the potential for constraining the employment opportunities of black men. At the same time, the history of civil rights regulation over the past 15 years suggests that regulatory benefits extended to blacks will also be extended to Hispanics, Asians, and other minorities.

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[1] The EEOC received 6,133 complaints in 1965, its first year in operation. Ten years later it was receiving more than 40,000 complaints a year, an increase of over 650 percent. By then it had developed a backlog of over 100,000 unprocessed complaints, even though its staff had expanded at an even faster rate than its complaint load (by some 840 percent as of FY 1975), and its budget soared still more dramatically (by some 2,200 percent as of FY 1975). A useful review of the Commission's operational flounderings in the mid-1970s is provided in *Equal Employment Opportunity Commission*, Hearings before the Subcommittee on Equal Opportunity, House Committee on Education and Labor (1975). The backlog was substantially reduced in the late 1970s by the closing of stale cases, the delegation of many cases to State and local authorities, and the introduction of fast, informal settlement techniques for large numbers of new cases. Yet it is notable that the number of new complaints—even under existing jurisdictions—continued to climb, approaching 80,000 a year (under Title VII alone) by 1981. Rather than gradually reducing the instances of perceived discrimination, 15 years of EEOC enforcement efforts simply stimulated more demand for Commission services. By the early 1980s, EEOC's backlog was climbing again, at a disturbing rate.

[2] County of Washington v. Gunther, 452 U.S. 161 (1981), which did not directly endorse what it called "the controversial concept of 'comparable worth'," but did find that Title VII offered broader protection against sex discrimination in wages than the Equal Pay Act.

[3] AFSCME v. State of Washington, 33 F.E.P. Cases 808 (1984).

[4] S. 1900, 98th Congress ("Pay Equity Act of 1983"), which also seems to contemplate EEOC review of claims against other private firms under Title VII of the 1964 Civil Rights Act though it does not directly amend Title VII.

[5] A useful review of developments in 17 States is provided in Alice H. Cook, *Comparable Worth: The Problem and State Approaches to Wage Equity* (Industrial Relations Center, University of Hawaii, 1983), suggesting that a number of State laws already on the books could be applied to impose comparable worth requirements on the private sector.

Comparable worth may not even be confined to the traditional protected classes of affirmative action programs, however. Critics of affirmative action in the early 1970s frequently warned that its logic could be extended to virtually every ethnic and religious group in America. If affirmative action programs did not succumb to this self-refuting extreme, that was largely because most potential new "classes" did not push to be counted and government agencies were able to restrict the ethnic categories in their data collection to a manageable (or almost manageable) short list of protected classes. Individual Italian Americans or Jews, for example, were largely foreclosed from charging systemic discrimination or demanding affirmative action in particular industries, because they could not readily secure statistical data to substantiate their claims.[7] But comparable worth programs focus on the content of jobs, not the character of jobholders. A job evaluation system, if adequate to meet the claims of some protected groups, can be applied just as well to any new claimants, without modification or new data. Under comparable worth, that is, if an individual Italian American worker thinks he is being underpaid, he can make a prima facie case of discrimination by invoking the same job evaluation mechanism developed to ascertain the proper pay for women or black employees.

Will wage equity complaints be allowed, though, only for employees in jobs dominated by women or specially favored minorities? It is hard to see how such a restriction could be maintained. The principle underlying comparable worth regulation is that employees should be paid what they deserve or what they are truly worth. Surely such regulation cannot arbitrarily restrict its efforts to ensuring that only women or blacks are paid what they really deserve! Even the conventional antidiscrimination laws purport to protect whites and men, along with women and minorities. And while a disappointed white male usually finds it hard to prove he lost a job or promotion through discrimination, the regulatory mechanisms of comparable worth regulation should be much easier to invoke. Under current law, very few employers actually can show that their employee selection or promotion criteria meet EEOC validation criteria; most employers, therefore, strive to achieve a statistical balance of minorities and women in their work force to avoid, as much as possible, the onerous (and sometimes impossible) burden of defending their normal employment criteria or procedures on the merits.[8] In contrast, comparable worth regulation will require some "objective" system for determining the "worth" of each job, and it is hard to see why the operation of this system in any particular firm could not be as readily attacked by disgruntled white male employees as by women and minorities.

At the least, then, formal "reverse discrimination" complaints are likely to be far more common because they are far more feasible under comparable

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[6] The Cranston bill actually betrays a revealing ambivalence or schizophrenia regarding its intended beneficiaries. The bill's preamble describes it as a bill "to promote pay equity and eliminate wage-setting practices which discriminate on the basis of sex, race or ethnicity," but the introductory statement of findings speaks only of earnings differentials between "female workers" and "similarly situated male workers," and sec. 3 defines "discriminatory wage-setting practices" as "the setting of wage rates paid for jobs held predominantly by female workers lower than those paid for jobs held predominantly by male workers. . . ." On the other hand, the reference to race and ethnicity reappears in the definition of "equitable job evaluation technique" as one which "does not include components. . .that reflect the sex, race or ethnicity of the employee." The term "ethnicity" does not appear in any previous civil rights legislation and seems quite open-ended in scope.

[7] Title VII itself prohibits discrimination on the basis of religion, as well as race. But as one recent commentary notes, "No court has ever approached religious discrimination from a *Griggs* point of view [relying on statistical disparities to make out a prima facie showing of discrimination] and it is unlikely that any such approach could be viable given the unlikelihood of obtaining data." V.B. Day, F. Erwin, and A.M. Koral, eds., *A Professional and Legal Analysis of the Uniform Guidelines on Employee Selection Procedures* (Berea, Ohio: American Society for Personnel Administration, 1981), p. 25.

[8] See the analysis of validation procedures under the government's "Uniform Guidelines," ibid., p. 51, stressing that racial balance in an employer's work force eliminates the need for any further validation of employee selection criteria as job related or nondiscriminatory. With comparable worth regulation, however, there can be no such evasion: even if the average woman employee makes precisely as much as the average man in a particular firm, this offers no assurance that woman in general are paid their full "worth" in that firm (they may be more qualified on the average than their male counterparts, for example), and certainly this offers no assurance that particular women in particular jobs are always paid their full "worth" in that firm.

worth regulation. But perhaps it is misleading to associate the comparable worth complaints of white males with "reverse discrimination." Differentials in pay can generate much resentment and sense of grievance even where all employees are men of common ethnic backgrounds. In fact, some of the programs now cited as precedents for comparable worth regulation—such as the wage controls imposed by the War Labor Board in World War II—were primarily aimed at just this sort of generic problem in labor relations.[9] And some advocates of comparable worth regulation today, such as Gus Tyler of the ILGWU (International Ladies Garment Workers Union), urge that it be developed to assure pay equity for all workers in the American economy.[10] The pressures on such a program to expand its goals—and also its jurisdiction—may well prove politically irresistible, then, whatever the initial focus.

Even if comparable worth regulation continues to be viewed as a device for remedying recognized forms of past discrimination, however, it is hard to see how enforcement officials could restrict their efforts to jobs dominated by women and minorities. Advocates of comparable worth often suggest that employers have somehow conspired to hold down wages for predominantly "female" jobs. But, of course, employers try to hold down wages for all jobs. The serious argument for comparable worth is that wages in certain job categories are artificially depressed because women are artificially crowded into these fields—as the result of discrimination in other fields, discriminatory counseling or selection in schools, or as is sometimes suggested, by the more amorphous discriminatory pressure of social expectations. These limits on the mobility of female workers, it is argued, allow employers to pay less in job markets dominated by women than they would pay for the same work in a fully competitive market. This is certainly a plausible argument in the abstract. But it is almost never pursued beyond such generalizations because it is impossible to quantify the precise effects of this or that type of background or societal discrimination on any particular wage rate. Thus, the generic argument can be extended in all directions with little loss in plausibility.

The recent *AFSCME* decision against the State of Washington, for example, focused on job categories where at least 70 percent of those employed were women. But given the skewed distribution of women in the labor market, even a job category in which 50 percent of the employees are women may well be subject to "unfair" competitive pressures, which have the effect of depressing wages.[11] A job category where merely 30 percent of the employees are black or Hispanic already has an "overrepresentation" from such groups. To the extent that blacks or Hispanics or recent immigrants are crowded into particular low-skilled jobs out of proportion to their numbers in the general population, this may be said to reflect the effects of past discrimination, at least in part. And the resulting "artificially" intense competition for such jobs may "unfairly" depress wages in such jobs or "unfairly" depress the aggregate earnings of the affected groups.

The more ambiguous or open-ended the rationale for comparable worth regulation, moreover, the more readily it can be expanded to cover novel types of claimants. All but the most extreme feminists, for example, concede that family commitments and a variety of feminine traits affecting job preference may always leave women somewhat less mobile in the labor market than men. Yet comparable worth advocates rarely seek to distinguish the reduction in women's earnings that should be attributed to these factors, as opposed to direct or indirect discrimination. And no comparable worth plan or proposal that I am aware of tries to take this distinction into account.[12] If it is accepted that comparable worth regulation should compensate for market imperfections caused by innocent or voluntary constraints, however, along with those attributable to discrimination, then a whole new range of grievances may come within its purview. Workers with strong family ties or neighborhood attachments, workers with particular handicaps or medical conditions requiring special services that are not widely available, workers with particular religious commitments requiring proximity to ritual facilities (such as Kosher butchers or ritual baths for Orthodox Jews)—all may claim that their mobility is unusually restricted and charge that employers are "unfairly" exploiting this vulnerability.

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[9] See Herbert R. Northrup, "Wage Setting and Collective Bargaining" in E.R. Livernash, ed., *Comparable Worth: Issues and Alternatives* (Washington, D.C.: Equal Employment Advisory Council, 1980), pp. 109–20.

[10] Gus Tyler, "Supplementary Statement," in D.J. Treiman and H.I. Hartmann, eds., *Women, Work and Wages: Equal Pay for Jobs of Equal Value* (Washington, D.C.: National Research Council, National Academy Press, 1981), pp. 107–14, urging that the goals of comparable worth be expanded to embrace a new minimum wage, indexed at 60 percent of the average manufacturing wage, and additional compensatory mechanisms guaranteeing a "social wage" to low-income workers.

[11] In 1981 female employees were 42.8 percent of the employed work force; arguably, therefore, any job category that is more than 43 percent female is already "overutilizing" women. One might even argue that any job category that is as much as 35 percent female has a suspiciously high proportion of women workers—which may be "unfairly" depressing wages—since a large portion of the female work force may voluntarily cluster in certain service occupations (nursing, day care, elementary school teaching, etc.) that have traditionally appealed to women, and this would leave a far lower percentage of women in all other job categories; if women were spread evenly through all other occupations (as one might assume, in the absence of discriminatory pressures), their representation in these remaining occupations would probably be something under 35 percent. Yet in a survey of employment in 1981, breaking down all employed positions in the economy into 135 categories, the U.S. Bureau of Labor Statistics reported that 78 of these categories (that is, well over half) were 35 percent female or more. In short, a great many jobs can come within the purview of comparable worth regulation, even if it focuses only on assuring "fair" wages to women.

It is not necessary to believe that every possible sort of claim will be pursued, however, to see that comparable worth regulators, once open for business on a regular basis, are likely to be quickly overwhelmed by a monstrously huge caseload. Limiting or cutting back on jurisdiction will be extremely difficult, if not impossible, in political terms: once the government gets into the business of assuring workers a "fair" wage, any attempt to exclude broad categories of workers from this protection is sure to look arbitrary—and is sure to elicit howls of outrage from those excluded.[13] The scale of this regulatory jurisdiction will surely generate tremendous pressure from employers for clear and simple compliance standards, to foreclose complaints and protect them from harassment. But the character of the comparable worth movement and our national experience with other civil rights programs strongly suggest that clear, simple compliance standards are quite unlikely to emerge.

This may finally make the task of comparable worth regulators even more unmanageable than the staggering scale of their potential jurisdiction.

Enforcement Policy: The Problem of Confused Objectives

Management consultants and public administration experts are forever chiding government agencies that they must clarify their objectives. Cynics may say that government administrators rarely heed these admonitions because, with no risk of being driven out of business, they are simply not very concerned about inefficient performance or low organizational morale. As a political scientist, I am more impressed by the great political difficulties that regulatory agencies encounter when they do try to clarify their objectives. The resulting tendency to temporize and obfuscate, to evade basic policy choices, has been particularly noticeable in many aspects of civil rights regulation over the past 15 years—with predictably debilitating consequences.[14]

But comparable worth regulation will probably be encumbered with even more aggravated policy ambivalence, given the larger ambiguities in its goals. And comparable worth enforcement will almost certainly be more thoroughly incapacitated by such confusion of aims, given the far greater scale of the administrative challenge involved.[15]

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[12] Individual settlements in public employment cases do seem to have taken this into account or at least to have based the final settlements on something less than full parity with "worth" assessments. See the examples cited in *The Comparable Worth Issue: A BNA Special Report* (Washington, D.C.: Bureau of National Affairs, 1981), p. 37. But it is unclear whether this reflected more than a device for reaching quicker agreement on otherwise contentious claims. In fact, a government regulatory program is unlikely to settle for correcting only discrimination-related pay inequities—at least in its official policy—because this would open the way to so much confusing and contentious counteranalysis by employers, urging alternate explanations for particular market disparities.

[13] The history of the contract compliance program (under Executive Order 11246) is particularly suggestive in this regard. The program initially required affirmative action plans (AAPs) only in the construction industry and then only for blacks. The Labor Department extended its requirements to universities and other Federal contractors and demanded hiring goals for women, too, in the early 1970s—after intense prodding by women's groups. Black Ph.D.s were so rare in most academic fields that separate hiring goals for individual university departments were a demonstrably futile exercise, but the Labor Department repeatedly refused suggestions that it treat minorities differently from women or universities differently from other Federal contractors in AAP requirements. On several occasions, the Labor Department itself tried to reduce the administrative burdens of the program by limiting AAP requirements or compliance reviews to contractors of a certain size: such proposals were invariably defeated by intense opposition from civil rights groups and women's groups. See R.A. Lester, *Reasoning About Discrimination* (Princeton, 1980), pp. 145–76).

[14] I have described this pattern in some detail in an article on civil rights enforcement by the responsible unit in HEW (now in the Department of Education) in "Office for Civil Rights," published in James Q. Wilson, ed., *The Politics of Regulation* (Basic Books, 1980), pp. 304–56.

[15] This entire discussion presupposes, of course, that comparable worth norms will actually be administered in some degree, rather than enforced entirely through private litigation. I make this assumption partly because that has been the dominant experience in civil rights enforcement: even school desegregation (the most

The first policy ambiguity for comparable worth enforcers is one that runs through most aspects of contemporary civil rights regulation: is the goal of enforcement to ensure fair procedures for the treatment of individuals or to achieve a certain preconceived distribution of resources or places among groups? It may seem that this issue has long since been settled in favor of the latter approach, but in fact, it continues to haunt the established civil rights agencies. One sees it in their inability to ignore the problem of reverse discrimination. More important, it is evidenced in their inability to divert more resources away from petty, individual discrimination complaints into more "productive" large-scale investigations (such as "pattern and practice" cases at EEOC or systemic compliance reviews at the Office for Civil Rights).

Comparable worth regulation would surely be under great pressure from the outset to adopt an aggressively result-oriented approach to enforcement. Its advocates, after all, are continually calling attention to the gap between average incomes for women and for men, while rarely citing specific examples of discriminatory criteria for pay setting. Yet it will also be unusually difficult for comparable worth regulation to ignore the fairness-to-individuals dimension in civil rights enforcement. By its very nature, it will involve unusually elaborate comparisons between differently situated groups of workers and will probably be forced to consider objections to existing pay differentials—and to proposed alternatives—from many different sides. With immediate, tangible changes in pay structures at stake, comparable worth cases may excite far more controversy than conventional discrimination complaints, which are often settled with no more than vague promises of "affirmative action" *in the future.* The job evaluation systems now in use in industry were often developed, in fact, by harried managements as "impartial" mechanisms to mediate the jealous wage claims and conflicts between different groups of workers.[16] Thus, there are bound to be very strong pressures to develop neutral criteria for wage assessment in comparable worth regulation, even if these criteria frustrate the expectations of favored constituencies in particular cases.

One can be fairly sure, given the response of civil rights agencies in the past, that comparable worth enforcement will straddle quite uncomfortably between these competing demands. But this is only the beginning of the difficulty. Result-oriented approaches will often be faced with awkward conflicts between equally plausible or equally tempting goals.

What are enforcing officials to do when "worth" standards assuring higher pay for women also imply relatively lower wages for blacks? Comparable worth advocates usually insist that equity can be provided by raising wages for the underpaid, without cutting the wages of any other group. But this is a comforting delusion. Surely comparable worth regulation is not going to produce some magical increase in the resources available for wage payments as a whole. In any case, the very name of the game is comparison, that is, relative standing. Even if no black employee has his wage immediately lowered by a policy stressing the "worth" of educational credentials, this is bound to reduce the income mobility of many black workers relative to female workers.

There will be equally painful conflicts among different groups of women. As mandated wage increases inflate an employer's overall labor costs, it may often respond by cutting back on the size of its work force or deferring expansion. What if the resulting layoffs or shrinking opportunities fall most heavily on women—as, from the employer's point of view, the jobs dominated by women have become most overpriced? On the other hand, what if mandated pay increases attract more men to compete for jobs traditionally dominated by women? What if this has the effect of actually reducing job opportunities and aggregate earnings for women as a whole?

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dramatic area for seemingly independent judicial action) has been extensively guided by HEW guidelines and expert recommendations, often represented in court actions by Justice Department attorneys and invoked in other cases by private litigants. Private employment discrimination suits rely extensively on EEOC guidelines and so on. I also make this assumption because, as the Cranston bill attests, Congress seems to have little stomach for writing detailed provisions on comparable worth, and judges themselves in Title VII cases have expressed great reluctance to enter comparable worth issues without more detailed guidance. But most of all I make this assumption because of the sheer scale and complexity of the comparable worth challenge: employers, if not advocates themselves, will surely demand some centralized, accountable, specialized agency to provide some predictability and coherence in the evolving system of comparable worth requirements. Most of the problems facing an enforcement agency, however, would also face parallel private enforcement activity, at least when viewed in the aggregate.

[16] Donald P. Schwab, "Job Evaluation and Pay Setting: Concepts and Practices" in E.R. Livernash, ed., *Comparable Worth: Issues and Alternatives*, pp. 49–67.

Facing such dilemmas, the enforcement agency will again no doubt try to equivocate, to preserve maneuvering room and avoid committing itself to a clear policy. Uncertainty about policy will then greatly compound the inevitable difficulties of enforcement at the operational level. Comparable worth regulation would have to operate, in the first instance, through self-assessment by employers, much like the affirmative action requirements of the contract compliance program. The enforcing agency would surely issue general guidelines, outlining the necessary elements of such wage assessments or job analyses. But it is quite unlikely to commit itself to precise rules of evaluation, for—quite apart from the political cross pressures—it would be altogether hubristic to attempt to say precisely how much weight should be given to various "worth" factors in millions of widely differing jobs. At present there is wide divergence among management experts on what these factors are and in how much detail they should be analyzed.[17] Agency guidelines may not even attempt to settle these threshold, procedural questions.

When enforcement officials come to review an employer's job assessments (whether at the instigation of a complaint from employees or on their own initiative), then, they will likely be embarking on a long series of extended negotiations over the form and implications of jobs analyses. Employers will probably favor broad "worth" categories, which can be weighted more subjectively and more readily accommodate existing pay practices. The enforcing agency will doubtless seek more detail, specificity, and supporting evidence—which may take months to prepare, imposing much cost and trouble on the employer, without necessarily alleviating (or confirming) the agency's doubts. In the contract compliance program, negotiations over the proper form and content of affirmative action plans have sometimes stretched out over a period of years.[18] Yet in most cases, affirmative action plans only commit a firm to "good faith" recruiting efforts over several years. Insofar as comparable worth assessments may mean substantial and immediate increases in labor costs, employers may be more adamant—or devious—in resisting the enforcing agency's directives or suggestions on proper assessment procedure.[19] In the midst of such wrangling, policy uncertainties or equivocations within the agency—especially in regard to the substantive ambiguities mentioned above—may have particularly debilitiating effects: negotiators who are not sure of their own goals are rarely very skillful or very quick in reaching agreements.

There is good reason to expect, therefore, that comparable worth regulation will be bogged down in paper maneuvers and administrative wheelspinning. Like other civil rights agencies in the recent past, comparable worth enforcers may well face charges—perhaps equally justified—that they are simultaneously bullying and ineffectual. Even if enforcement operations do not fall into a complete morass of muddling and confusion, recurring imbroglios are sure to strain the patience of supporters and the forbearance of opponents. Even the most decisive, agile, and efficient agency managers would need a large reserve of political support to keep enforcement programs moving ahead in such conditions. But for a variety of reasons, a supportive political climate is probably the last thing one should expect for comparable worth regulation.

Political Context: The Problem of Exacerbated Strife

Quotas and preferential treatment policies have already created a great deal of destructive controversy in the past decade, imposing severe strains on the traditional "civil rights" coalition and tarnishing the moral prestige of the original movement. Comparable worth regulation may prove to be far more divisive, however. Employment quotas or affirmative action "goals" often confront only an anonymous mass of prospective future employees. Comparable worth will invariably affect those already employed in direct and tangible ways. Relative pay and standing within firms is often a crucial element in employee morale and amicable relations between management and labor: comparable worth regulation will be a continuing irritant and perhaps a major disruptive force in this context. Coventional discrimination suits have aroused a great deal of bitterness when they have challenged existing seniority rules. Comparable worth can be far more unsettling to union leaders, as it brings a wider range of issues in collective bargaining under the scrutiny and control of government managers. At the same time, comparable worth regulation invites ugly disputes between minorities and the women's movement, as government "assessment" rules are seen to have dramatically different consequences for these constituencies. And, of course, it will provide fresh fuel for the chorus of business complaints that government regulation is overburdening productive enterprise and threatening our international competitiveness.

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[17] This is conceded even in Treiman and Hartman, *Women, Work and Wages*, pp. 69–90, which takes a very sympathetic view of the potential for comparable worth regulation in general.

[18] Lester, *Reasoning About Discrimination*, pp. 168–72.

[19] The potential for obstruction and delaying maneuvers through court action would probably be greater if the program, as ultimately established, provided for direct enforcement through the courts, as with EEOC, rather than through administrative termination or suspension of contracting authority, as with the Office of Federal Contract Compliance Programs in the Labor Department. The latter sanction has been less subject to court challenge, however, in large part because it has so rarely been invoked in practice; a more vigorous or punitive enforcement effort there might also find itself tied up in protracted judicial appeals.

Beyond all such immediate controversies, however, I fear that comparable worth regulation will greatly exacerbate two trends in American politics that are already very disturbing. On the one hand, it is likely to accelerate the tendency among many people to regard "civil rights" as a mere rhetorical cover in a seamy scramble for economic redistribution. The inspiring ideal of "equal opportunity" will be hard for most people to remember amidst the spectacle of government officials manipulating ordinary people's wages. The dream of an integrated society will be ever harder to retain amidst a program that focuses such direct attention on "our" gains against "theirs." Not merely ethnic and racial tensions, but class divisions are likely to be inflamed, as credentialed, middle-class women are seen to increase their pay at the expense of blue-collar families. Altogether, then, comparable worth regulation carries the potential for entirely dissipating the remaining moral capital of "civil rights." Yet, in the long run, moral support is indispensable for the protection of minorities.

On the other hand, comparable worth regulation may well exacerbate the already disturbing trend toward a politics of recrimination and despair, particularly within the civil rights community. This is not an alternative risk, exclusive of the first. On the contrary, these opposite trends are more likely to develop simultaneously and feed on each other. Experience with school busing in many cities and with affirmative action in many industries confirms that it is quite possible for a program to cause much disruption and embittering dislocation, without securing its intended benefits or even achieving its immediate goals.[20] In fact, given its unpredictable effects on layoff and hiring patterns, there is much reason to fear that comparable worth regulations will simply shift wage rates among individuals without doing much to reduce the overall "earnings gap" between the sexes (or the races) that inspired it. Yet even quite tangible and significant gains from civil rights enforcement in the past—such as the large-scale integration of public schools in the South by the Nixon administration—have rarely been justly credited by civil rights leaders and allied politicians. Even during the sympathetic Carter administration, feminists and civil rights leaders often seemed to relish an unyielding adversary posture toward government.[21] The disappointment of exaggerated expectations readily provoked charges of conspiracy and betrayal. There is little doubt, moreover, that comparable worth administrators will display more than enough blundering and confusion—for reasons sketched in the preceding section—to keep such critics busy. Meager or negligible effects on the "earnings gap" will then be taken, not as a reflection on the faulty economic premises of comparable worth regulation, but as a confirmation of our society's irredeemably sexist or racist character.

Taken together, these trends can have a poisonous effect on our politics. One need not view the prospect for domestic discord in apocalyptic terms to consider it a very serious charge, in itself, against comparable worth. But it is more pertinent here to consider the implications for the actual administration of the program: a climate of dissension that is poisonous for the country is sure to be quite ruinous for the administrators of comparable worth.

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[20] Careful evaluations by economists have failed to establish that the contract compliance program has actually achieved very significant or tangible gains for minority employment. See, "Evaluating the Impact of Affirmative Action: A Look at the Federal Contract Compliance Program," *Industrial and Labor Relations Review*, 29 (July 1976), pp. 485–584.

[21] Joseph Califano, certainly not unsympathetic to these groups, complains about their stridency and near-paranoia on a number of occasions in his memoir of his term as HEW Secretary, *Governing America* (Simon and Schuster, 1981). He recalls that civil rights lawyer Joseph Rauh moved so often to cite him for contempt of court (for failing to carry out court orders relating to the adminstration of civil rights laws) that Attorney General Bell finally "sent me a hacksaw 'in the event of incarceration'." (p. 254).

Conclusion

As an abstract concept, comparable worth regulation seems to have many ardent champions. As a practical program, it has a great many liabilities. It will be very hard to keep its jurisdiction within manageable limits; it will be very hard to reduce its open-ended concerns to clear, settled objectives and regular, reliable operating procedures; it will be very hard to keep it from foundering amidst furious political controversy.

I have not yet seen a persuasive demonstration that wage rates based on private bargaining and free competition are, in fact, "unfair" to women, minorities, or other broad classes of people. I am not persuaded, in other words, that comparable worth advocates are actually addressing a genuine problem. But even if I took the problem more seriously, I would still have great doubts whether government regulation can provide an acceptable or effective solution. Civil rights advocates in the past have not been very attentive to the limits of governmental capacity. I hope this Commission will consider the question quite carefully in evaluating proposals for comparable worth regulation.

The Employment and Earnings of Women: The Comparable Worth Debate

By Ray Marshall* and Beth Paulin†

Introduction

The increasing labor force participation of women is perhaps the most important labor market development of this century. Women have always worked, of course, but in the preindustrial society the family was the basic producing unit, and the work of women was an integral part of that unit. Industrialization caused an expansion of the labor market and made economic activity increasingly external to the family. In the new division of labor, women were considered to be peripheral and temporary participants in the male-dominated market economy. Decisions concerning wages and other conditions of employment were made on the assumption that men would be the main wage earners. Hence, market values gave inadequate attention to the importance of home work. This "traditional model" described the dominant features of labor market patterns in the United States until the 1960s.

The increased labor force participation of women has changed the character of the work force: women are no longer peripheral but integral parts of the work force, most women spend more time working than they do bearing children, and male and female expectations about self-realization from jobs and careers are converging. Unfortunately, conditions of employment have not changed to reflect the new realities.

The tensions and relationships produced by the dichotomy between the conditions of employment and the increased labor force participation of women have very important social and economic implications. The way traditional labor, management, and governmental institutions respond to these new realities will affect their institutional strength as well as the conditions of women and men and, indeed, the health and stability of the entire society.

Discrimination against women, both overt and institutional, has, therefore, become an important policy issue. Overt discrimination occurs when decisions are made to deny women certain jobs or pay them less than men on the assumption that women are either not "suited" for certain jobs or are worth less than men who do similar work or work of equal value to the employer. Institutional discrimination is a more subtle and intransigent form of discrimination. Institutional discrimination is deeply embedded in social institutions where it is naturally assumed that men and women will do different kinds of work and receive different compensation. In general, the job and pay assignments reflect the belief that women are "inferior" participants in the work force and, therefore, the higher status and

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* Professor, Lyndon B. Johnson School of Public Affairs, University of Texas.

† Ph.D. candidate, Department of Economics, University of Texas.

higher paying jobs are reserved for men. Women as well as men adjust to these institutional patterns, thereby perpetuating this form of discrimination.

Employers can use institutional discrimination to cover overt discrimination. One way is through what is sometimes called "statistical" discrimination, where employers recruit from sources where one race or sex predominates because of the assumption that the probability of finding qualified workers from those sources is higher. In addition, if employers are really biased against women for certain jobs, they can use screening procedures that appear to be bias free, but that actually yield results compatible with their biases. The result is occupational segregation.

The issue of pay equity precipitates directly from the phenomenon of occupational segregation in which predominantly female jobs are paid less than male jobs of equal value to the employer in terms of such factors as skill, effort, and responsibility required in those jobs. The main purpose of this paper is to explore this issue of pay equity or what is popularly called comparable worth. We first examine the evidence with respect to male-female employment and earnings patterns and then analyze the pros and cons of the pay equity or comparable worth issue.

The Pattern

The increased labor force participation of women is likely to continue, though at a declining rate; women are expected to constitute two-thirds of the growth in the labor force during this decade. In 1950, 70 percent of American households were headed by men whose income was the sole source of family income: in 1984, less than 15 percent of families fit this "traditional" model, even though many of our employment policies assume it still to be pervasive. The evidence also indicates that the labor force participation of women is increasing for minorities as well as whites and that younger women have higher labor force participation rates than their mothers and grandmothers (see table 1).

There also is a trend toward convergence in male-female occupational distributions and attitudes toward work. A paid job has become an important symbol of self-worth and personal independence for women, even though most women work for economic reasons. The mechanization of household work and increasing life expectancy have created much more time for women to pursue careers. Around 1900 the average life expectancy for all women was 47 years, 18 of which were spent childbearing; today, life expectancy is 77 years, only 10 of which are devoted to childbearing (although more is devoted to childrearing). Because minorities have different life expectancies, the impact of trends can be seen more clearly by looking at the experiences of white women. In 1900 the life expectancy of a white woman was about 64 years. She could expect, on the average, to be widowed at 52 and die before her last child left home. In 1980 a white woman who married at 22 could expect to live about 79.4 years and to stop having children at age 30. Her last child would leave home when she was 48. However, there was a 47.4 percent chance that her first marriage would end in divorce. Davis and van den Oever (1982) observe:

> Underlying demographic changes thus force women to reduce the importance of marriage in their lives. The prospect is that two-thirds of their adult years will be spent without children in the household and half to two-thirds without a husband.

Women's employment patterns influence, and are influenced by, declining *fertility rates*. The average birth rate has declined from 22.3 per 1,000 in the 1935–55 period to 19.5 per 1,000 between 1955 and 1978 and is expected to be 15.8 for 1975 through 1995 to 2000.[1] These declines in birth rates reflect changing employment and lifestyles for women. They make it possible for more time to be devoted to work outside the home.[2]

Related to the decline in fertility rates is the fact that young women are also delaying marriage. In 1960 only 28 percent of 20–24-year-old women had never been married; by 1980 this proportion had increased to 52 percent, and it is expected to be 55 percent by 1995.

The trend toward convergence in male-female occupational distributions can be attributed in part to education. To the extent that occupational distributions reflect educational attainment, there should be a convergence of male and female job patterns, especially for younger people. The median educa-

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[1] United Nations, 1979.

[2] Declining fertility rates also mean that there will be less job competition in the future from domestic population increases. Moreover, declining birth rates, if sustained, would imply an aging population.

Table 1

Labor Force Participation Rates of Women 20 Years and Over by Year of Birth and Age, 1955–79*

	1955		1960		1965	
Year of birth	**Age**	**Rate**	**Age**	**Rate**	**Age**	**Rate**
1956-60						
1951-55						
1946-50						
1941-45					20-24	50.0
1936-40			20-24	46.2	25-29	38.9
1931-35	20-24	46.0	25-29	35.7	30-34	38.2
1926-30	25-29	35.3	30-34	36.3	35-39	43.6
1921-25	30-34	34.7	35-39	40.8	40-44	48.5
1916-20	35-39	39.2	40-44	46.8	45-49	51.7
1911-15	40-44	44.1	45-49	50.7	50-54	50.1
1906-10	45-49	45.9	50-54	48.8	55-59	47.1
1901-05	50-54	41.5	55-59	42.2	60-64	34.0
1896-1901	55-59	35.6	60-64	31.4	65-69	17.4
1895 or before	60-64	29.0	65-69	17.6	70 and over	6.1
	65-69	17.8	70 and over	6.8		
	70 and over	6.4				

	1970		1975		1979	
Year of birth	**Age**	**Rate**	**Age**	**Rate**	**Age**	**Rate**
1956-60					20-24	69.1
1951-55			20-24	64.1	25-29	65.7
1946-50	20-24	57.8	25-29	57.0	30-34	61.8
1941-45	25-29	45.2	30-34	51.7	35-39	63.4
1936-40	30-34	44.7	35-39	54.9	40-44	63.9
1931-35	35-39	49.2	40-44	56.8	45-49	60.4
1926-30	40-44	52.9	45-49	55.9	50-54	56.5
1921-25	45-49	55.0	50-54	53.3	55-59	48.7
1916-20	50-54	53.8	55-59	47.9	60-64	33.9
1911-15	55-59	49.0	60-64	33.3	65-69	15.3
1906-10	60-64	36.1	65-69	14.5	70 and over	4.7
1901-05	65-69	17.3	70 and over	4.8		
1896-1901	70 and over	5.7				
1895 or before						

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*Annual averages.

Source: U.S. Department of Labor, Bureau of Labor Statistics, *Perspectives on Working Women: A Databook* (Washington, D.C.: U.S. Government Printing Office, October 1980), bulletin 2080.

Table 2
Educational Attainment of Men and Women by Age Group

Age and sex	Percent of labor force with: Less than 4 years of high school	Percent of labor force with: 4 years of college
18–24		
Women	14.7	9.3
Men	23.9	6.4
25–34 years		
Women	11.2	24.7
Men	13.2	27.8
35–64 years		
Women	22.6	15.2
Men	27.5	22.2

Source: U.S. Department of Labor, Bureau of Labor Statistics, *Employment in Perspective: Working Women*, Report 650, Second Quarter 1981.

Table 3
Professional Labor Force by Sex and Race

	1966	1979
White women	13.0%	31.6%
Black women	0.6	2.2
Black men	0.7	1.9
White men	83.5	58.9
Other*	2.2	5.4

*Includes Asian and Hispanic Americans and American Indians.

Source Equal Employment Opportunity Commission data.

tional levels of all women and men are about equal and have been since 1970; the medians for both were 12.2 years in 1970 and 12.6 years in 1979. There have been marked declines in the proportion of women and men in the labor force who have completed less than 4 years of high school[3] and marked increases in the proportion who have completed 4 years of college.[4]

Data on the proportions of men and women who have had 4 or more years of college indicate significant differences for age groups. Table 2 shows that young women 18–24 years of age are more likely to have completed 4 or more years of college than men in the same age group. In the older age categories, men constitute the larger proportion of labor force participants with 4 or more years of college. It should also be noted that a larger percentage of men than women did not complete 4 years of high school in every age category.

Although a large percentage of women remained in traditional occupations, there were significant increases in nontraditional areas like medicine, law, and accounting. In 1970, 60 percent of all female professional and technical workers were in the traditional occupations of nursing and precollege teaching; by 1979 this percentage had dropped to about 52 percent; however, 80 percent of women were in occupations where women constituted 70 percent or more of total employment.

Table 3, using data from the Equal Employment Opportunity Commission, shows the proportions of the total professional labor force represented by different groups. As the data show, white women have made particularly impressive gains in broad professional occupations. However, as will be seen later, there is still considerable job segregation within these broad classifications.

Although conclusive proof is not available, there is little doubt that a major factor responsible for the integration of nontraditional occupations has been pressure from the Federal Government to enforce antidiscrimination legislation and the affirmative action requirements of government contractors. Surveys suggest that women in managerial positions, particularly, feel that discrimination is the main barrier to their advancement and that during the early 1980s, "businesses sense less federal pressure to hire and promote women as part of affirmative action requirements."[5]

Although women have made impressive gains in professional jobs, the main determinants of future employment growth for women will be the growth of nonprofessional occupations because this is where most of the jobs are. These will, in turn, depend on general economic conditions and the extent to which

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[3] Between 1970 and 1979, the proportion of women in the labor force who completed less than 4 years of high school declined from 30.6 percent to 27.7 percent. The analogous figures for men were 37.3 percent and 26.4 percent.

[4] For women, 10.7 percent in 1970 and 14.9 percent in 1979, and for men, 14.2 percent in 1970 and 19.6 percent in 1979.

[5] Lublin, 1982.

Table 4
Mean Annual Earnings of Year-Round, Full-Time Workers by Education, Race, Sex, and Spanish Origin, 1979

	Mean earnings					
Years of education	White men	Black men	Spanish[1] origin men	White women	Black women	Spanish[1] origin women
Elementary						
Less than 8 years	11,845	9,752	10,438	6,991	7,174	7,099
8 years	14,580	12,249	13,257	7,995	7,068	(B)
High school						
1 to 3 years	15,279	11,811	13.129	8,856	7,975	7,974
4 years	17,449	13,571	14,715	10,074	9,797	9,530
College						
1 to 3 years	19,361	15,524	16,704	11,416	11,293	10,639
4 years	24,766	18,980	21,900	13,186	14,431	(B)
5 years or more	29,746	26,189	24,427	16,811	16,981	(B)
Total	19,610	13,908	14,491	10,939	10,363	9,590

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[1] Persons of Spanish origin may be of any race.
(B) Base less than 75,000.

Source: U.S. Department of Commerce, Bureau of the Census, *Money Income of Families and Persons in the United States: 1979* (Washington, D.C.: U.S. Government Printing Office, 1980), Current Population Reports P-60, no. 129, table 53.

Table 5
Wage Gaps, [illegible]970 and 1980

	1970		1980	
	Wage	Wage gap*	Wage	Wage gap*
White men	5.11	—	5.04	—
White women	4.38	.73	4.20	.84
Black men	4.09	1.02	4.45	.59
Black women	3.91	1.20	3.99	1.05

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*Difference between group's wage and white men's wage.

Source: 1984 study by Gordon W. Green, Jr., Census Bureau.

women are able to break into nontraditional occupations.

Earnings

At the beginning of the 1980s, despite some occupational upgrading, women had about the same earnings relative to men that they had at the beginning of the 1970s. Women who worked full time earned about 60 percent as much as men. Although women almost achieved earnings parity in some newer occupations like computer science, they ordinarily were concentrated in lower paying jobs in each occupation. In 1978 white women earned 55.6 cents for every dollar earned by white men, while black women and Hispanic women fared even worse, 52.3 cents and 48.2 cents for every dollar earned by white men, respectively. (For 1979 data see table 4.)

The real wage gap for young white men and women actually appears to be widening when other things are held constant. A 1984 study by Gordon W. Green, Jr., a senior official of the Census Bureau, found a growing real wage gap for young (average age 21 or 22) white men and white women full-time workers who entered the job market for the first time in 1980. Table 5 displays the wage gaps.

The average wages for white women, as a proportion of the average for white men, were 86 percent in 1970 and 83 percent in 1980. For black men, the average wages as a proportion of the average for white men were 80 percent in 1970 and 88 percent in 1980; for black women, the figures were 77 percent in 1970 and 79 percent in 1980.

Some might argue that these earnings differentials can be partially explained by the quality of education. However, a study by Susan Bailey and Barbara Burrell (1980) examined the careers of 1972 graduates of Harvard's schools of law, dentistry, design, divinity, education, public health, and arts and sciences 7 years after students were awarded advanced degrees and found that women graduates had consistently lower salaries regardless of marital or family status. For instance, the average salaries of graduates of the Harvard School of Public Health were $37,800 a year for men and $21,300 for women.[6]

Comparable Worth

Two basic facts stand out from the preceeding analysis of labor market patterns. First, on average in 1980, full-time women workers earned only about 60 cents for every dollar earned by men. Second, about 80 percent of all women workers were concentrated in occupations in which women constituted 70 percent or more of the work force.[7] Even though the absolute number of women breaking into nontraditional, male-dominated occupations is on the rise, the occupational distribution of men and women workers has changed very little since 1900.[8] And according to Meyer and Maes (1983), the patterns of occupational segregation are likely to persist as the new generation of women workers follows closely in the occupational mold, despite the convergence of education and labor force participation patterns of men and women.

That the male-female earnings gap and occupational segregation have proven to be stable labor market phenomena in the face of dynamic economic change leads one to question the equity and efficiency of the labor market's allocative and remunerative forces. Are women underpaid for their work, or do they merely hold those jobs that are worth relatively less? This is the crux of the comparable worth controversy.

Arguments Against Comparable Worth

Those who oppose the concept of equal pay for work of comparable value usually base their convictions on a model of the labor market that is quite different from those who favor comparable worth. The former believe that the labor market operates in accordance with the competitive forces of supply and demand: women's wages are like any other price, and women's labor is akin to any commodity that is for sale on the market. If women's wages are low, it is because market forces deem that they should be low.

Holding firmly to this scenario, Gary Becker (1957) "proved" to the world that discrimination cannot persist in a free market economy modeled in accordance with the neoclassical tradition.[9] Given all of the assumptions inherent in the neoclassical, general equilibrium model—profit maximization, perfect mobility of resources, unbridled competition, etc.—the existence of discrimination is said to be a temporary aberration of an otherwise smoothly running labor market. Given time, market forces will eradicate this market imperfection. Thus, the argument is made that without the long-term threat of discrimination, there is no need for corrective action to be instigated outside the market.

In theory this simplistic view of a self-adjusting labor market may be logically sound, but in practice it leaves many questions unanswered. For example, if discrimination is only temporary, how is one to account for the existence and longevity of occupational segregation and the male-female earnings gap? If discrimination is not the cause, what is? Can neoclassical theory adequately explain these labor market phenomena? If so, we can then conclude that this theory is correct in its view of discrimination and that those who hold to it are correct in opposing comparable worth. If not. . . .

Becker's original theory of discrimination has proven to be incapable of explaining the earnings gap and occupational segregation. According to one group of theorists, led by Becker himself, this does not make the theory wrong, but merely incomplete. Whereas Becker's first approach was demand oriented, the situation calls for an analysis of labor supply, which is provided by the human capital school.

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[6] Of further significance is the fact that only 1 percent of women graduates of Harvard Law School were partners in law firms, in contrast to 25 percent of men graduates.

[7] These occupations tend to be those with lower pay and little or no opportunity for advancement. Also note that the percentage of women making up an occupation can increase while the percentage of *all* women who are in that occupation (as opposed to other occupations) does not have to change.

[8] Hartmann and Reskin, 1983, 1. Even within integrated occupations, women are segregated into separate jobs, noticeable at the lower end of the wage spectrum. In addition, most women in "men's occupations" are found in the lower profit, lower wage firms.

[9] Strangely enough, Becker purported to explain discrimination and yet assumed that it was *exogenous*.

Human capital theory has a commonsense appeal. Generally speaking, one would naturally assume that education, occupational status, and wages are positively correlated. The same should hold true for other human capital factors, such as the level of experience, specialized training, and so forth. The key here is the presumed connection between human capital attainment and productivity. Both general and specialized training are said to increase one's productivity. According to the marginal productivity theory of wages, other things equal, the higher a worker's productivity, the higher will be his or her wages.

What does all this have to do with the earnings gap and occupational segregation? According to the human capital school of thought, both can be explained by differences in human capital accumulation among men and women. As previously stated, the level of individual earnings is assumed to depend upon individual productivity, which is assumed to be a positive function of the amount of human capital embedded in an individual. Thus, if it can be shown that (1) human capital investment determines earnings, (2) human capital investment is significantly different for men and for women, and (3) earnings differentials can be explained by these differences in human capital accumulation, then we can dismiss the charge of wage discrimination.

The first empirical tests of human capital theory fell far short in their attempt to explain earnings. Even though it was well documented that men in general had "more" human capital than women, human capital factors were found to explain only up to one-third of the earnings differential. Not only did their equations lack decent correlation coefficients, but human capital theorists also had to explain such facts as why a woman with a college degree made on average only as much as a man with an eighth grade education.

Faced with this dilemma, human capital theorists were quick to point out the difficulties associated with measuring productivity. Years of schooling was an imperfect measure of general education, since it was believed that *quality* of schooling was also a factor. There was a similar problem with age as a proxy for experience. Not only was measuring productivity a problem, but there was also the possibility that something was "left out" of the equation.

Undaunted, human capitalists held their ground. The explanations turned from a direct explanation of wage differentials to an indirect one via occupational segregation and the resulting excess supply of women for "women's" occupations. Those who take this approach argue that occupational segregation and wage disparity have their roots in lifetime optimizing behavior. Women are said to freely segregate themselves in low-wage occupations because this is optimal for them. (This is known in the field as "rational" behavior.)

Solomon Polachek has done much work in this area, using choice as an explanation of occupational segregation. According to Polachek, all labor force participants choose their occupations based on some lifetime optimizing behavior. They choose that occupation with the highest benefit-cost ratio, discounted accordingly. Occupational differences among participants arise from the different costs and benefits each expects to confront in his or her lifetime.

Of particular consequence for men and women is the fact that women's occupational choices vary from men's because expected lifetime labor force commitment varies. Men expect to remain in the labor force their entire working lives. Women, on the other hand, expect that their patterns of labor force participation will be characterized by intermittency due to childbearing responsibilities and other familial obligations.

It also is observed that the characteristics of occupations vary in such matters as the level of responsibility required, flexibility allowed, overtime demanded, and skills and education needed. What is of particular interest to Polachek and others is the way occupations vary (1) in their rate of depreciation, the rate at which the skills required depreciate or atrophy when not in use, and (2) in their rate of appreciation, the rate at which new skills are learned (assumed to be a function of occupational longevity). Those occupations with low appreciation rates (jobs that allow for very little or no skill enhancement) have relatively flat earnings curves. Wages rise very little as one's experience in that occupation increases. Those occupations with high appreciation rates have steep earnings curves. Because of the costs associated with training, wages are relatively low at the beginning of the work experience. Skills are enhanced with experience and wages respond accordingly.

Now, because women exhibit optimizing behavior and because, on average, their labor force commitment is best described as intermittent, they will choose to enter those occupations that have a minimal cost associated with that intermittent labor force participation. These occupations will be those with low depreciation rates and those with the highest starting salaries, whose payoff comes quickly, not at some future date when they likely will be out of the labor force. These are the jobs with the lowest appreciation rates such as elementary school teaching, operative and sales work, and household work.[10] Thus, because women have little life-cycle labor force commitment, they choose to segregate themselves in a select group of occupations that are limited in number.

Conversely, men choose occupations with high rates of appreciation and high future payoffs because this is optimal given their strong lifetime commitment to the labor force. In addition, men are not constrained by depreciation rates, a factor that women must consider because of their intermittent behavior. Therefore, since labor force commitment is different for each sex and the costs of labor force intermittency vary among occupations, the natural and optimal outcome is occupational segregation.

Human capital theorists link this analysis to earnings in two ways. One is through the previously mentioned relationship between human capital accumulation and earnings: because of their *expected* intermittent behavior in the labor market, women do not find it optimal to invest in as much on-the-job training as men or in as much education (not only in terms of years of schooling, but in quality of schooling, the latter being reflected in the different college majors chosen by women).[11] Their payoff period is shorter, increasing the probability that costs incurred will be greater than the expected future benefits. If women do not invest in as much human capital, they should not expect to earn as much as men.

The second link between occupational segregation and the earnings differentials is through the interaction of supply and demand: because women choose to enter a limited number of occupations, supply exceeds demand, resulting in downward pressure on wages. Thus, claim the human capital theorists, it is erroneous to attribute low wages in women's occupations to discrimination when it is really women themselves who, by their *rational* behavior, are bloating supply and keeping their own wages low.

If Polachek's twist to human capital theory were correct, the labor market would reveal several facts:

(1) If women with little labor force commitment choose to enter those occupations that have a minimal cost associated with intermittency, we should find that women who choose predominantly female jobs will be penalized *less* for the time they spend out of the labor market than those women who choose "men's jobs."

(2) Women who have more continuous employment patterns should be more apt to be in men's jobs than women with less commitment to the labor force.

(3) As women's labor force participation patterns and educational characteristics become more like men's (as they have over time), we should expect to see the sexual occupational distributions converge.

Paula England (1982) investigated the validity of these logical outgrowths of Polachek's theory. Curiously, she found that the NLS (National Longitudinal Survey) data used by Polachek do *not* show that women in women's jobs are penalized less for their intermittent labor force participation than are women in men's jobs. Women lose relatively little from labor market withdrawal and recoup their earnings relatively fast when they reenter the work force. Similarly, she found no significant correlation between increased continuity in the labor market and the probability of a woman choosing a man's job.

These findings cast serious doubts on the validity of human capital theory's explanation of occupational segregation and the earnings differential. This should not be so surprising given the theoretical and logical defects of human capital theory: women do not invest in human capital because they do not expect to earn high wages given their intermittent labor force participation and because they do not invest in human capital they do not earn high wages. Tautology has never proved itself to be solid reasoning.[12]

Similarly, Corcoran and Duncan (1978) investigated the underlying causes of wage differentials between the sexes, differentiating by race. They included variables in their equations that quantified absenteeism and self-imposed restrictions on work hours and locations, along with the traditional human capital factors relating to work history and on-the job training.[13]

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[10] Polachek, 1979. Note that these are occupations that are 70 percent or more female, at least superficially substantiating this theory of occupational segregation.

[11] Polachek, 1979.

[12] For other problems with human capital theory, see Levitan, Mangum, and Marshall, 1981.

As expected, the data revealed a number of differences between women and men and blacks and whites that are said to affect productivity. Women worked less and had shorter continuity in work experience. Women's absenteeism was slightly higher than that for men, and more women had self-imposed employment limits than men.[14]

Even though differences exist between men and women, and blacks and whites, no conclusion can be reached concerning the reasons for these wage differentials until it is determined that the measured factors do, in fact, determine earnings and it is shown that these factors account for a significant portion of the wage gap. Corcoran and Duncan found that the productivity-related factors affect the earnings of all four subgroups in a similar way. This implies that all receive almost identical marginal payoffs for identical skills. But they also found that the constant terms differed substantially among the four subgroups, suggesting that white men earn more than women or blacks at any given skill level. There is a premium paid for being both white and male.[15]

Finally, Corcoran and Duncan combined the information on differences in the amounts of education, work experience, and work commitment with the estimated effects of these factors on earnings to see how well they would account for earnings differences between white men and the other three groups of workers. Differences in work history are most important for white women, while educational differences also play a large role for black women.[16] Significantly, however, *a very large part of the wage differentials cannot be explained,* suggesting that sex earnings differentials are attributable more to labor market discrimination and employment policies and less to choice by women than implied by the human capital studies.

Arguments for Comparable Worth

Advocates of comparable worth can point to numerous studies to discredit those who refuse to admit that discrimination—both racial and sexual—plays an active role in wage and occupational determination. When examined more closely, theories that may "look good" on paper turn out to be inconsistent with both the data and common sense. The problem is that opponents of comparable worth base their arguments on a theory of the labor market that might fit neoclassical, general equilibrium models, but that does *not* fit well with reality and, therefore, is an inadequate guide to policy.

As noted in the previous section, the comparable worth controversy is based on two different perceptions of the structure and functioning of the labor market. On one side is the emphasis on the forces of supply and demand. The other side gives greater weight to internal labor markets, a subject to which we now turn.

One way to describe an internal labor market is to say what it is *not.* It is not a place where workers are continually searching for better jobs at higher wages and employers are continually searching for workers who will take a lower wage. It is not a place where workers compete amongst themselves for job openings by offering to accept a lower wage. It is not a place where job vacancies are known about or open to all workers. It is not, in short, a place where external labor market forces of supply and demand have much direct effect on the rules governing compensation and the assignment of people to jobs. This is not to argue, of course, that what happens outside the enterprise has no effect on internal wages and occupational structures; rather, the argument is that the effects of external demand and supply are sufficiently imperfect to leave room for discretion, i.e., discrimination.

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[13] It is believed that because women are absent from work more than men (they are the parent more likely to stay at home when the kids are sick, etc.), they are denied promotional opportunities. Some even postulate that women refuse positions with more responsibility and thus higher wages, because they do not want to be tied to the job if something "comes up" at home. Being in menial positions, they supposedly can get time off more easily and without much hassle.

[14] Employers apparently structure jobs for women to accommodate this pattern and provide less opportunity for on-the-job training leading to higher paying jobs. However, the experience factor is becoming more favorable to women because the main reason for their increased labor force participation rates (LFPR) is that experienced women are reentering or never leaving the work force (Barrett, 1980).

[15] They also found that the coefficients on the work continuity and labor force attachment variables were small and insignificant. Note that these findings, like those of England, are in contrast to what Polachek and others would have us believe.

[16] Differences in educational attainment for the four subgroups are as follows: white male, 12.85 years; white female, 12.73 years; black female, 11.75 years; and black male, 10.96 years.

In contrast to the traditional perception of the labor market, the internal labor market is a place where most jobs have elements that are unique to a particular enterprise and, thus, are not subject to competition from "outside" supply and demand pressures. Job allocation is a routinized process whereby job vacancies are filled by moving up the job ladder *one step at a time.* Relative wages are set by custom and are rarely changed for fear of internal disruption in the work lives of employees.

To be more specific, the labor market consists, in part, of many internal labor markets. These "markets" are found within sizable firms and workplaces, in both the public and private sectors. It has been estimated that approximately 80 percent of the labor force works in these internal labor markets.[17]

Internal labor markets developed within firms, corporations, and other public and private organizations because of job uniqueness. Job uniqueness and the resulting demand for firm-specific skills introduced on-the-job training as a necessary prerequisite to a smoothly operating establishment. For on-the-job training to be carried out properly, those who train their replacements must have the security of knowing that they will be adequately compensated. Giving up knowledge is akin to giving up one's power. Job security becomes an important issue, as does relative remuneration. Thus evolved the customary laws of the internal labor market. These laws solidify the relationships between the workers themselves and between workers and the employers in regard to job allocation and relative wages, providing security for all involved.

In order for an individual to enter the internal labor market, one must typically be hired into a job that is properly termed a "port of entry." These entry jobs require little or no firm-specific skills and often are at the bottom of promotional ladders or are professional and managerial jobs that tend to be standardized across industries. Market forces act more strongly on these jobs as their characteristics are representative of many of the traditional assumptions made by neoclassical wage theory. (For instance, the jobs are often well advertised, especially since the advent of antidiscrimination laws and Executive orders, and wages are more sensitive to the market than other jobs in the internal labor markets.)

Once in the internal labor market, promotions and earnings are tied to seniority, custom, and tradition brought into the market from the community. Since internal labor markets reflect societal customs and social order, so too will the allocation of women's labor within those markets and the relative payments made for that labor. Thus, the knowledge that communities have historically ranked women inferior to men (at least in the labor market) goes a long way towards explaining women's present position. Women have been denied certain jobs because of their "inferior status." Women have been denied promotions and have been paid less than men for doing exactly the same work. Women have also been paid less than men for doing work of equal value but different in nature, again because of their inferior status.[18]

The practice of paying women's jobs less than men's jobs, even though both are of equal value to the organization, is embedded in internal labor markets and integral to "maintaining order." To suggest that the elimination of discrimination in internal labor markets is optimal for the profit-maximizing firm is to misunderstand the importance of order (and security) in the efficient operation of the production process in these markets. As Doeringer and Piore tell us:

> In almost all cases the full effects of. . .discrimination cannot be remedied without costs being imposed on the incumbent work force in terms of job security and promotion opportunities. This in turn is often perceived as a threat to the entire rule and equity structure of the internal labor market.

Anything that upsets the balance of job allocation and payment mechanisms hinders the productive potential of the internal labor market participants. The reliance on on-the-job training underscores the importance and power of information. When workers feel their security is threatened by a change in the status quo, they will exert what power they have to show their displeasure. They will withhold information; not the type of information found in job manuals, but the kinds of information gathered by working with particular machines and particular people—knowledge of what makes them work better and harder, of what makes them run most efficiently. Without this type of information, the smoothly running firm can become an unproductive quagmire.

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[17] Doeringer and Piore, 1971, 41.

[18] The first three of these phenomena have been recognized as discrimination and made illegal by Title VII of the Civil Rights Act of 1964 and the Equal Pay Act of 1963 (although there is evidence that these forms of discrimination still exist). The last, a variation of the first three, is still widely rejected as being a form of discrimination, and until quite recently employers who practiced it were immune from prosecution.

Employers who operate in internal labor markets, thus, have little or no reason to eliminate discrimination once it is embedded in the operational scheme. Contrary to popular belief, eliminating discrimination will not necessarily increase profits.

It is often asked why women employees do not go elsewhere if they feel they are being treated unjustly. Why do they not get jobs at a port of entry where there is a probability of moving up the ladder? Since many do not, can it not be concluded that women *are* fairly compensated for their work?

Questions such as these elict two responses. First of all, alternative employment is just not that easy to find. Quitting a secure, but underpaid job for one at an entry-level position where promotion is uncertain is quite a risk to take. And considering the fact that two-thirds of women who work do so because of economic necessity, taking such a risk may be too much to ask. Even if one does take the risk, as long as society considers women's place as subordinate to that of men, the internal labor market will reflect this. Many men will resent women bosses. Women will not be given that information "missing" from the company manual. This will hinder their productivity, and they will likely be passed over for promotions. Order and security are too important to be taken lightly.

Secondly, those who argue that women choose the jobs they can get into not only are involved in circularity, but also ignore the reality of "institutional" discrimination. Institutional discrimination originates in specific overt acts of discrimination rooted in community beliefs and customs and personal prejudices of decisionmakers. Women adjust to these patterns (just as blacks did) because it takes more power than most individuals have to change the system. This does not, however, mean that society is not damaged by discrimination against them (most do perceive discrimination); it merely means that as *individuals* they have limited power to change the system. Moreover, since institutional discrimination is deeply embedded in community customs, women rarely have role models for nontraditional jobs and are rarely counseled to aspire to those jobs.

Occupational discrimination benefits employers if there are many women with positive attributes with limited options. Employers can get more productive labor by paying a wage that is lower than the contribution those who are not discriminated against could make in those occupations. There is evidence, for example, that employers can get better qualified women at lower wages than they would have to pay men—which probably is one of the reasons that Greene's study cited earlier found a widening real wage gap (between 1970 and 1980) between white men and women with similar labor market attributes.

Similarly, although women might have "chosen" traditional occupations, they do not choose to be paid lower wages than men for work of equal value to the employer or to be discriminated against in periodic wage adjustments. It is no answer to say that those women who already are in predominantly female jobs could solve their problem by applying for men's jobs—it is not very practical for women who already are established in their careers to be told they should train for and seek to enter predominantly men's jobs. More women will enter nontraditional jobs as we break down overt and institutional discrimination, but that is no argument against ending pay discrimination against women who (1) already have made their career choices or (2) really want to be in "traditional" women's jobs. Not many women or men want to have their choices restricted; occupational discrimination restricts choices for men and women.[19]

Some Misperceptions About Comparable Worth

Many of the arguments against comparable worth are based on misinformation about what the comparable worth concept is all about. Germanis,[20] for example, defines comparable worth as "equal pay for jobs requiring similar levels of training, responsibility, and other *employee characteristics.*" Comparable worth does not intend to compare *employee* characteristics. The concept is equal pay for *jobs* of comparable worth. If an organization, through job evaluation or whatever system is used, determines that a man's job is just as valuable to the firm as a woman's job, then the employees in both those jobs should be paid equally even though the jobs themselves are quite different.

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[19] Men might avoid "women's" jobs because they are paid less than in "men's" jobs for the same attributes.

[20] 1984a, 1.

Germanis[21] also states that "under this doctrine, pay would be based on the opinion of an 'objective' government board or similar body, whose decisions would derive from an estimate of the skill, effort, and responsibility involved in one job relative to another." George Hildebrand makes a similar point:[22] "The proposal leads directly to administrative wage control for the entire American economy."

Again, these statements reveal a misinterpretation. Comparable worth is a concept that is to be instituted at the level of the firm.[23] Advocates of comparable worth do not ask that the government establish wage rates for the entire labor market or for any geographical region of that market. Comparable worth requires only that the firm's evaluation of jobs be unbiased and that pay scales be set up accordingly. The government would not tell enterprises what to pay, any more than they do under other nondiscriminatory measures; the government's requirement is and should be only to see to it that whatever system the company uses not be discriminatory. Of course, if courts find after trial that employers have discriminated, then they appropriately require certain wages to be paid as a remedy—just as is currently done in discrimination cases.

Germanis[24] also argues that "[u]nder comparable worth wages would no longer be based on productivity and initiative." Quite the contrary! Comparable worth *requires* that wages be based on "productivity" as measured by whatever techniques employers use to measure the value of a job to them—not as measured by the sexual makeup of an occupation. If women's and men's jobs are determined to be equal value, i.e., equally "productive," they should be paid accordingly.

Daniel Seligman[25] makes the claim that "comparable worth is just the latest dodge in the never-ending effort of interest groups to get a better deal than the market is giving them." The problem is that the market is giving women a *raw* deal. Women's work is undervalued in the market—historically because of overt discrimination and now because of institutionalized discrimination. Women have been channeled into jobs that were considered to be "appropriate" for them, which ordinarily meant an extension of their nuturing home duties, such as teaching, social work, and nursing. Because home work was (and is) considered less valuable than men's market work, jobs that are seen as an extension of home work, women's jobs, are undervalued also.

Many researchers challenge comparable worth on the grounds that it cannot be proven that women's jobs are undervalued. These arguments assert that an earnings gap between men and women does not "prove" sex discrimination.

June O'Neill:[26] "The existence of a wage differential does not prove the existence of discrimination any more than the absence of a wage differential proves the absence of discrimination."

O'Neill:[27] "There is no firm evidence that pay is lower in women's occupations because of undervaluing these occupations." Referring to a previous study,[28] O'Neill argues that "being in a more female dominated occupation was associated with somewhat lower pay. But it could not be ascertained whether this effect was capturing an unspecified characteristic of the job or whether it simply reflected transitory market phenomena."

Then there are the other explanations of the earnings differential:

Germanis:[29] "Closer examination of these factors[30] reveals that the relatively lower earnings obtained by women actually reflect their own preferences and productivity—not systematic sex discrimination by society." Elaborating on this, Germanis lists several reasons for the differential:

1. A large proportion of women are in entry-level positions due to the large influx of women into the labor market.
2. Men work more hours than women during the week and also work more weeks during the year.
3. Women are tied to their husbands and thus are restricted to a limited geographical region in their search for a "high-wage" job.
4. Women have higher turnover rates than men. "If an employer believes a woman is more likely

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[21] 1984b, 1.

[22] 1982, 83.

[23] The word "firm" is used here in a generic sense, meaning all organizations both public and private.

[24] 1984b, 6.

[25] 1984, 134.

[26] 1983b, 4.

[27] 1983b, 27.

[28] O'Neill, 1983a.

[29] 1984a, 1–2.

[30] Personal, cultural, and market conditions.

than a man to leave the firm—the woman is likely to be hired only if she accepts a lower wage than a man with identical credentials to compensate the firm for the additional risk."[31] (Again, this shows his confusion with *employee* characteristics and *job* characteristics.)

5. Women are lacking in "human capital" relative to men.

6. The characteristics of men's jobs require that they be paid a premium. "Since male-dominated jobs are more closely linked to fluctuations in the economy, part of the wage gap between the sexes can be explained by the wage premium paid men to compensate them for the greater risk of job loss."[32] Along the same lines, he argues that "women trade off wages for better working conditions, such as good hours and pleasant surroundings. . . .Many male-dominated professions, on the other hand, are characterized by less agreeable and more dangerous surroundings."

7. Our tax system with its high marginal tax rates "creates an economic disincentive for women to pursue a demanding career."[33]

June O'Neill also argues that human capital factors and women's preferences, high turnover, and other "female" characteristics are the major reasons for occupational differences and hence earnings differences.

Again, these arguments reveal some misconceptions. Advocates of comparable worth do not base their claims simply on the fact that an earnings gap exists between the sexes. It is that when analyzing the underlying causes of this phenomenon, thay are able to make the charge that women's work is undervalued. Sure, there are differences in the amount of "human capital" men and women have. There are also well-documented differences in other general characteristics between men and women that are expected to affect productivity and in turn affect earnings. But the fact is that all these factors cannot explain why the gap is what it is. Besides, when we are comparing *jobs,* we must assume that the human capital requirements for those jobs would be *equal* regardless of sex. Human capital differences might explain the differences between compensation of *workers,* but not the jobs they accept.

Opponents of comparable worth will respond with statements like the following: "Studies that do not attribute the whole wage differential to economic factors cannot assert that the differential is due to sex discrimination—only that reliable statistics on certain factors are difficult to assemble."[34] "The residual is a measure of our ignorance, not of discrimination."[35]

But the residual is evidence of discrimination. It is not perfect, but it provides some evidence, which must be supplemented with additional supporting logic and data. The residual is not a perfect measure in part because the labor market does not operate according to the assumptions implicit in those kinds of tests and in part because of measurement and data problems. Regressions assume workers are paid the value of their marginal product, i.e., job allocation and wage remuneration result from perfectly competitive forces of supply and demand. Wage payments and job allocations are not carried out in this way. They are carried out in imperfect external and more imperfect internal labor markets. In internal markets, wages are insulated from the external forces of supply and demand, except for the "ports of entry," where workers are hired from the external labor market. Job evaluations are used extensively—often to justify the existing wage relationship, i.e., discriminatory wage practices.

This view of the labor market is in striking contrast to the one presented by opponents of comparable worth. In their world, the whole system runs on the profit motive with firms continually competing with each other for a bigger share of the market by striving to reduce costs so that they can lower product prices. This neoclassical model of the labor market precludes the existence of wage discrimination. "The wage setting process is the result of two conditions, neither of which the employer controls: (1) Wages are limited from above by the worker's productivity in the job and (2) supply considerations prevent an employer from paying to workers of a given productivity a wage that makes working for that employer less attractive than working for other employers. To do so invites these workers to seek employment elsewhere."[36] "What is true of the product market is equally true of the labor market. Prices are determined by demand and the marginal cost of production."[37]

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[31] 1984a, 6. This is illegal! In Phillips v. Martin Marietta and City of Los Angeles v. Manhart, the Supreme Court ruled that employees must be treated as individuals, not as members of a sexual or racial class.

[32] 1984a, 7.

[33] 1984a, 11.

[34] Germanis, 1984a, 2.

[35] O'Neill, 1983b, 26.

[36] Germanis, 1984a, 3–4.

"If discrimination did exist, non-discriminating and profit seeking firms would simply hire females for lower wages, thereby lowering production costs and enabling them to bid business away from discriminating firms by charging lower prices."[38] Thus, "[t]he market has a built-in mechanism to eliminate discrimination: the profit motive."[39] O'Neill[40] agrees: "The firm would of course like to pay less than the value of productivity. It is the existence of alternatives and the workers' power to quit that keep the wage from falling below productivity. Discrimination is one factor that can lead to an employer paying more for some workers than they are *worth* while others are paid less or not hired at all. In the case of discrimination, an employer's prejudices against a worker (or group of workers) is sufficiently great that the employer is willing to forego profits (by overpaying the favored workers) rather than employing the disliked group. Because such inefficient behavior is penalized in a competitive market, there are powerful forces working against discrimination."

This "inefficient behavior" may be penalized in a competitive labor market, but the fact remains that the labor market is not perfectly competitive in the neoclassical sense. Workers do not continually search for jobs with higher pay. They make investments in the jobs they currently hold; they establish relationships. Nor do workers compete amongst themselves for jobs by lowering their asking pay. And employers do not fire someone just because they found someone who will work for less. Again, investments are made and relationships established. Moreover, it is more likely that employers will underpay those discriminated against or segregate them into certain occupations than that they will "overpay" preferred workers. In a competitive market, it is difficult to see why employers would pay white males more, especially in a world characterized by unemployment where white males could be hired at the going wage. Finally, most of the comparable worth cases have arisen among public employees, where the critical assumption of profit maximization is not appropriate.

Because of the way in which internal labor markets work (and these are the markets at which comparable worth is aimed), discrimination, i.e., "inefficient behavior," is not so unprofitable. Actually, as noted earlier, from the employers' perspective the *elimination* of discrimination is likely to be "inefficient behavior" in these markets.

Although the competitive forces of supply and demand do not operate with much precision in the internal labor market, it must be admitted that some jobs are impacted by their influence. A problem that has been uncovered, however, is that this does not always apply in women's occupations. Take nursing, for example. The nursing profession is made up predominantly of women. The nursing profession has for years and years been suffering from a perceived labor shortage. And yet, wages have not risen enough to correct the situation.

Moreover, the neoclassical model assumes away the importance of group decisions by assuming that conduct is based on individual maximizing decisions. It cannot handle decisions made by groups and classes of workers—white workers, black workers, unions, etc.—that have very important influences on wage and employment decisions.

Finally, we must look at the arguments against comparable worth that are based on *economic consequences*. These arguments are similar to those historically raised against regulation of labor market activities and range from assertions that comparable worth will lead to unemployment and inflation to total economic chaos.

"There are three ways comparable worth will increase unemployment and along with it poverty and welfare dependency. . . .It will raise the price of low-productivity workers without improving their productivity. . . .In consequence, employers will be induced to lay part of the group off to hold down the enforced rise in their costs. . . .For the low-paid women working in the numerous small or even tiny firms, the imposed rise in labor costs will bring about either much bankruptcy or voluntary closure. Disemployment of these workers will follow. . . .In larger firms the imposed increase in labor costs will create an incentive to substitute capital and to revise plant or shop organization to replace low-paid women or alternatively, to raise hiring standards so that fewer workers of either sex who are more productive can replace them."[41] In addition, Hildebrand asserts that "[t]here will be some withdrawal of discouraged women workers from the labor force, precisely because official policy will have destroyed their jobs for them, despite their own efforts to be productive and self-supporting citizens."[42]

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[37] O'Neill, 1983b, 8.

[38] Germanis, 1984a, 2.

[39] Germanis, 1984a, 4.

[40] 1983b, 8.

O'Neil[43] objects to comparable worth on the grounds that it will subvert the role of affirmative action. "Comparable worth could distort the price signals that have been the impetus for men and women to enter particular occupations. It would lock women into the traditional women's occupations and in the long run would work to the disadvantage of women." Germanis agrees with this assessment, arguing that comparable worth will distort wages and make male jobs less attractive. Curiously, he sees another problem: "It could also encourage some men to enter the traditionally female occupations, generating greater competition for the jobs in these sectors."[44]

Opponents of comparable worth warn that governments, too, will have additional problems: Higher wages for women will force public officials either to increase spending or cut services in order to be able to pay. Taxes will then have to be raised if the first option is chosen while public sector workers will be laid off if government opts for the latter. Either way, the public loses.

Germanis argues that comparable worth will also have adverse effects on unions by preventing them from winning the best possible terms for their members—the reason being that wages would no longer be a product of collective bargaining. "Unions [will] be reduced to toothless watchdogs, ensuring that management paid the wage rates determined by the board of evaluation."[45]

He also argues that economic growth will slow down as a result of worker apathy. "Wages determined by wage boards [will] mean an end to pay increases reflecting productivity increases. As such, workers [will] have less incentive to develop their skills if they [feel] that a point system [will] not reward them sufficiently."[46]

Finally, it is argued that comparable worth will accelerate inflation, hurting the economy through both its domestic and international effects. One estimate of the total cost is $320 billion.[47]

There is as much disagreement over the economic *consequences* of comparable worth measures as there is over their *need*. Listening to the opponents of comparable worth, one would get the impression that if comparable worth were to be instituted, the U.S. economy would be thrown mercilessly out of "equilibrium," resulting in unemployment, inflation, and numerous bottlenecks in production. Does the American public need to fear comparable worth as these arguments suggest?

Doubtless, there will be some "losers" if comparable worth takes its rightful place in the U.S. economic system,[48] but it is doubtful if the economy will lose more than it will gain by paying women what they are worth. However, since women are not paid the value of their marginal product, as opponents of comparable worth erroneously assume, arguments like those above should not receive much weight.

First of all, it will be admitted that raising women's wages will have some substitution effects. Of this there can be no doubt. The question is, however, is this so bad? Even granting the validity of neoclassical analysis, paying a factor of production less than the value of its marginal product implies that resources are being used inefficiently. Thus, to the extent that comparable worth will correct the misallocation of resources, we must conclude that this is a gain for the economy.

Secondly, eliminating discrimination also would increase the firm's costs. Profits might fall, some firms might struggle, and consumers might pay higher prices. However, if the firm extracted monopsony profits because of its ability to discriminate against women, or operated under imperfectly competitive conditions, it could increase wages without raising prices. Even if there were "losers," is it fair to make women subsidize firms so that profits can remain high, marginal firms can survive, and consumers can benefit from lower prices?

Third, unemployment among women might rise, but it is highly unlikely where discrimination exists

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[41] Hildebrand, 1982, 106.

[42] Ibid.

[43] 1983b, 1.

[44] 1984a, 7.

[45] Germanis, 1983b, 7.

[46] 1983b, 8.

[47] Germanis, 1984b.

[48] Discrimination "protects" those discriminated against from competition for the (usually inferior) jobs to which they are relegated.

(because the wages of women were less than comparable pay for men) that paying women what they are worth would lead either to the displacement of women or to the substitution of men for women.

Fourth, as noted, increasing the pay for women's jobs doubtedly will entice more men to enter these occupations. We view this as a positive outcome—the net effects will be to increase the pay and options for women and the options—if not the pay—for men.

Lastly, the estimated cost to the economy of $320 billion is just that—estimated. If it is true that $320 billion is being withheld from women's paychecks as a result of discrimination, then the extent of discrimination should be enough to convince all that the problem is important enough not to be brushed aside.

Summary and Conclusions

The arguments for and against comparable worth can be summarized as follows:

(1) The wage differentials between men and women are not based on discrimination, but merely reflect the forces of demand and supply.

The problem with this argument is that it assumes a model of the labor market that is very different from the way wages actually are determined. The forces of demand and supply are important, but they function very imperfectly, leaving much room for discretion, i.e., discrimination.

Few would argue that discrimination is the only reason for the pay gap, but few objective analysts could argue that there is *no* discrimination against women in the labor market. Numerous efforts to account for the pay gap by a variety of techniques usually have a sizable residual that cannot be accounted for by so-called human capital factors.

However, several points should be made about these general, economywide studies. The first is that regression equations cannot *prove* discrimination or the absence of it—they merely constitute one piece of evidence to be used in arguments over whether or not discrimination exists. Other evidence ordinarily is required to make the case. Secondly, these arguments have little to do with comparable worth, which refers to the pay scales attached to *jobs* in a particular organization, not to the wages paid to men and women in the *economy* or a given external labor market. Of course, there should be some relationship between job requirements and human capital attributes, but people and jobs are not matched perfectly, and many factors affect earnings besides the wage rates attached to the job.

Comparable worth relates to specific jobs in particular enterprises. The basic question to be answered in determining discrimination in wage rates for jobs is: Do the jobs where men are concentrated have higher rates of pay attached to them than the jobs where women are concentrated in terms of the value of those jobs to the employer, on the basis of a standard job evaluation procedure, or the employer's own evaluation system—whatever that is?

Of course, job evaluation techniques are not "precise." They are inherently judgmental. But so are *all* compensation systems. There are few, if any, perfect markets for labor, or even markets like stock and commodity markets that approximate auctions. As noted, this is particularly true of internal labor markets where jobs are enterprise-specific and where custom, equity, and discretion play a major role in compensation systems as well as in assigning people to jobs. Job evaluation techniques have become well-established mechanisms for bringing some order and objectivity to internal labor markets. It is surprising that labor relations professionals who have dealt with job evaluation systems for years would argue *against* them in comparable worth cases. It was especially disingenuous for the State of Washington to argue against its own job evaluation system, which suggested discrimination in pay based on points assigned to jobs.

Again, however, these job evaluation techniques leave latitude for discretion. We are persuaded, though, that most job evaluation techiques that have been used to show a pay gap between predominantly male and female jobs probably *understate* the margin for discrimination because they use factors that are more likely to predominate in men's jobs or that are more common among men than women.

Indeed, the sex bias in job evaluation techniques is a proper concern for antidiscrimination agencies. If it is assumed, as we do, that there is discrimination in external labor markets, then importing the bias into the internal labor market through wage surveys is no defense against discrimination. This is particularly true for governments, where most of the comparable worth cases are likely to originate. It can be argued that the market is more important to a profit-maximizing private firm where the demand for labor is a derived demand, but what does the govern-

Table 6
Regression-Corrected Wage Relatives, 1979

(USPS = 1.0 for each race-sex group, make comparisons within column only)

Industry	(I) White males	(II) White females	(III) Nonwhite males	(IV) Nonwhite females
Mining	1.195*	.992	.941	.781
Construction	1.149*	.843†	.894	.656*
Mfg. durables	1.016	.820*	.893	.721*
Mfg. nondurables	.992	.754*	.849	.645*
Transportation, utilities	1.066	.865†	.898	.729*
Trade	.854*	.665*	.789*	.614*
Finance, insurance, real estate	1.017	.774*	.890	.677*
Service	.822*	.727*	.784*	.694*
USPS (U.S. Postal Service)	1.000	1.000	1.000	1.000
Federal Government ex. USPS	1.094†	.861†	.948	.746*
State government	.926	.824†	.851	.757†
Local government	.940	.758*	.887	.715*
Agriculture	.904†	.855	.772*	.729*

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* Significantly different from 1.0 at the 1 percent level.

† Significantly different from 1.0 at the 5 percent level, but not at the 1 percent level.

Source: Joel Popkin and Company.

ment's labor demand schedule look like? What is the marginal product of a government employee?

Governments typically assign wage rates to jobs on the basis of wage surveys that reflect structures in the external (mainly private) market. The evidence suggests that these markets are *more* discriminatory than public markets, where political power can offset some of the effects of market discrimination (see tables 6 and 7 from Joel Popkin & Co., based on census data for 16,000 workers using multiple regression analysis based on 68 variables that explain almost 60 percent of the variation in wages; 50 of the variables are significant at the 5 percent level).

(2) It is sometimes argued that comparable worth is like attempting to return to the obsolete medieval concept of "just price." The trouble with this argument is that the "just price" or equity still plays an important role in wage determination in internal labor markets, especially in government employment. Governments typically make surveys, but do not translate the results into wage changes, arguing that such survey results are "too high" or in some cases "too low." Similarly, most organizations preserve hierarchies of wage payments based on status considerations—as when it is determined that Federal employees should not be paid more than Cabinet officers or Members of Congress; that State employees should not be paid more than their supervisors or Governors; or that wages in one occupation should retain established relationships to other occupations or there will be morale problems; or that no wages should be cut, regardless of survey results. These are perfectly valid considerations for wage and salary administration, but they are not the automatic consequences of the forces of demand and supply.

Unfortunately, these traditional job hierarchies also contain the consequences of traditional attitudes about "men's" jobs and "women's" jobs. In most cases, discrimination was blatant enough before the Equal Pay and Civil Rights Acts that direct relationships probably can be established between the internal wage structure and specific overt acts of discrimination that established those structures. Intentional discrimination can be established where employers perpetuate internal structures they *know* to have had discriminatory origins, as was done in the Washington State case.

Table 7
Regression-Corrected Wage Relatives, 1979

(White males = 1.0 for each industry, make comparisons within row only)

Industry	(I) White males	(II) White females	(III) Nonwhite males	(IV) Nonwhite females
Mining	1.000	.811†	.824	.668†
Construction	1.000	.717*	.814*	.584*
Mfg. durables	1.000	.788*	.919*	.725*
Mfg. nondurables	1.000	.742*	.896*	.665*
Transportation, utilities	1.000	.793*	.882*	.699*
Trade	1.000	.760*	.966	.735*
Finance, insurance, real estate	1.000	.743*	.916†	.680*
Service	1.000	.864*	.998	.862*
USPS (U.S. Postal Service)	1.000	.977	1.046	1.022
Federal Government ex. USPS	1.000	.769*	.906	.697*
State government	1.000	.870†	.961	.836†
Local government	1.000	.788*	.987	.778*
Agriculture	1.000	.923	.893†	.824†

* Significantly different from 1.0 at the 1 percent level.
† Significantly different from 1.0 at the 5 percent level, but not at the 1 percent level.

Source: Joel Popkin and Company

(3) This background makes it possible to deal more quickly with typical arguments against comparable worth (see Hildebrand, Germanis, and Seligman for examples):

(a) The wage gap is due to things other than discrimination. We agree, but most studies leave a residual unexplained by "other things."

(b) Comparable worth would require *the government* to force employers to pay equal wages for unequal work. A variant of this argument is that comparable worth would lead to government wage fixing. The government would *not* force employers to do anything except not to discriminate in whatever compensation system the organization uses. The government would not fix wages, though courts might order specific wages where discrimination has been proved.

(c) Acceptance of the comparable worth principle would be very disruptive and expensive. Response: who knows? It would depend on the evidence in each case. Some critics assume comparable worth means the elimination of wage differentials between men and women: this is absurd—not many argue that *all* of the differential is based on discrimination.

As noted, however, the evidence of discrimination in compensation must be judged in each case. If much discrimination in pay can be demonstrated to the satisfaction of courts or administrative agencies, there could be some disruption, but that is the price for correcting serious problems of discrimination. If the critics of comparable worth are correct and discrimination cannot be demonstrated, there will not be much disruption.

We have noted, however, that the *theoretical* and general arguments used by most of the critics prove nothing. If you *assume* perfectly competitive labor markets and equilibrium conditions, then *any* intervention would be disruptive by definition. If on the other hand, you assume markets to be imperfect and discrimination to be a reality, interventions that might distort a perfect market will improve an imperfect one by reducing discrimination that should not exist.

It also should be noted that most critics of comparable worth assume discrimination to be mainly a matter of specific overt acts of discrimination and ignore the institutional patterns, which they assume not to be a concern of public policy. This assumption is in keeping with the highly individualistic assumptions underlying neoclassical economics. It is this assumption that makes it possible for critics to dismiss occupational segregation on the grounds that "women chose those conditions for rational reasons," even though most of the so-called "rational" reasons are not supported by careful analysis of the data. Discrimination is at least as much a *social* and group as an individual phenomenon. Social action, therefore, will be required to overcome institutional discrimination.

In conclusion, therefore, whether or not there is discrimination in pay must be determined on the basis of the facts in each case. A remedy for pay discrimination does not require that wages be equalized for men and women, only that the jobs be valued on a nondiscriminatory basis. This does *not* lead to central planning or government wage fixing; the government does not have to fix wages to eliminate discrimination. It is true that comparable worth is based on some elements of "just price" or equity, but in the absence of auctions for labor, a sizable equity element is inevitable in labor markets. Similarly, job evaluation is not precise—it is inherently judgmental, but it is an established technique, and comparable worth cases would involve no more judgment than ordinarily is involved in wage and salary administration.

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ABSTRACTS OF PAPERS PRESENTED

Abstract of "The Earnings Gap in Historical Perspective" by Claudia Goldin

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This paper analyzes long-run changes in the relative earnings of females to males and in the variables that might determine this ratio. The historical record is examined to see if changes in technology, work organization, educational standards, and life-cycle labor force participation have altered the relative earnings of females to males. The implicit framework is one of an evolving labor market in which skills, education, strength, and job experience are differentially rewarded across a changing occupational structure.

The ratio of female to male earnings within the manufacturing sector rose rapidly from 1820 to 1850, then at a somewhat slower pace from 1850 to 1930, after which it reached a plateau. An aggregate earnings ratio rose from 0.457 in 1890 to 0.551 in 1930 and then to 0.603 in 1970, that is, by at least 32 percent over the course of the last century. The earnings ratio rose from 1970 to 1980, but had been relatively constant from 1950 to 1970 and had even declined in the early 1950s.

Two sets of causes, proximate and underlying, are explored. The proximate causes are limited to five separate effects: the change in the structure of jobs for males and for females, the change in the structure of earnings for males and for females, and the change in the ratio of male to female earnings within occupational groups. Six occupational groups for three benchmark years are examined. The earnings ratio rose over time for almost all of the six groups, particularly in the professional and clerical sectors. The analysis of the proximate determinants of the change in the earnings ratio indicates that relative earnings within occupations and the overall skill differential across occupations are the variables of interest. Occupational change is important only when the categories are considerably finer.

Four factors are of importance in the analysis of the underlying causes: gender-specific skills, life-cycle labor force experience, work expectation, and education. Data on piece-rate earnings in 1895 indicate that males earned on average 30 percent more than did females, when the piece rate was identical for both and when both worked at the same job in the factory. The difference in physical product, therefore, accounted for 23 percentage points out of a possible 40, or 58 percent. Data on life-cycle labor force participation and the average labor market experience of working women indicate that average years of labor market experience for currently working women have barely increased over this period, despite the rather large increases in labor force participation. Years of job experience for the currently working population of married women increased from 9.06 in 1930, to 9.78 in 1940, to 10.52 in 1950. The labor market experience of working women age 40 remained roughly constant at 13.5 years from 1940 to 1980, while the work experience of the entire population of women aged 40 rose by over 4 years. The findings with respect to changes over time in life-cycle work experience are consistent with those concerning changes over time in the ratio of female to male earnings. But the findings with respect to the average length of employment at any point in time are disturbing in conjunction with occupational data. All cohorts of American women have had labor force participation rates that were higher than those of preceding cohorts and that have increased over their life cycles. Cohort labor force participation data suggest that women may have had difficulty predicting their own labor force participation later in life and that each cohort when young may have been misled by extrapolating from the experiences of their elders.

Abstract of "Occupational Segregation and the Earnings Gap" by Andrea H. Beller

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Much of the earnings gap between men and women can be explained by differences in the occupational distributions of the sexes, according to many studies. Male occupations pay more than other occupations even after controlling for all measurable human capital and labor supply differences between incumbents. One explanation for this is based upon discrimination against women in certain occupations that then become male dominated. An alternative explanation is that women choose these occupations with little training and low wages for family reasons. Empirical evidence is consistent with the former, but is mixed on or inconsistent with the latter.

Enforcement of antidiscrimination laws such as Title VII of the 1964 Civil Rights Act should reverse these effects of discrimination. In fact, enforcement of Title VII has effectively narrowed both occupational segregation and the earnings gap. However, if such change continued at its present rate, it would take 75–100 years to attain a completely integrated occupational distribution.

The extent of occupational segregation is not unchanging, contrary to previous findings. In fact, occupational segregation by sex declined nearly three times as fast during the seventies as during the sixties, and women entered nearly all male white-collar occupations at an increasing rate over the decade. Changes among managerial occupations were most dramatic. A decline in segregation among college majors also occurred. Change was greatest for the youngest cohorts. Since the labor force tends to be dominated by older cohorts, it would take many years for these changes to work themselves through the occupational distribution as these younger, less segregated cohorts age.

Given these declines in occupational segregation, it is rather surprising that the earnings gap has not narrowed. It may be that continued or increased crowding has lowered the wages of older cohorts of women. That these women have not benefited from the changes in the younger cohorts provides the basis of a justification for comparable worth.

Abstract of "Women in the Economy: Perspectives on Gender Inequality" by Solomon William Polachek

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This paper provides a survey of current literature on gender differences in economic well-being. The conclusions are:

(1) Gender occupational segregation exists in that differences are apparent in the occupational patterns of men and women. However, sex differences in occupational distribution are incapable of explaining gender wage differentials. In fact, occupational segregation explains only about 15 percent of gender wage differences, though most studies yield an even smaller explanatory power.

(2) The most robust explanation of gender differences in economic well-being comes from human capital theory. This theory relates economic success to lifetime labor force participation brought about by the existing division of labor within the home. Primitive versions of the human capital approach explain up to 60 percent of the wage gap. More comprehensive versions can explain the entire gap.

(3) Human capital theory can also be used to explain occupational segregation. At this time empirical work is only at the initial stages. However, results seem to indicate that if women were to work continuously, the number of women in managerial jobs would double, and the number of women in menial service-type jobs would diminish by 25 percent.

(4) Discrimination can exist. It takes two forms: societal and market. Societal discrimination evolves through societal preconditioning (which, for example, causes wives to be younger and less educated than their husbands) as well as existing legislation creating implicit marriage taxes. Both cause a division of labor within the home, forcing husbands to specialize in market activities and wives to specialize in household activities.

Market discrimination evolves *not* because the market cannot work, but because the market is often not permitted to work. Regulatory forces restricting market competition create incentives for inefficient behavior, one form of which is discrimination. Pending comparable worth legislation is an attempt to treat a symptom, and not the cause. Hence, market inefficiencies can only be exacerbated.

Abstract of "Explanations of Job Segregation and the Sex Gap in Pay" by Paula England

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This paper is an overview of research from sociology, economics, and psychology that reveals explanations for the persistence of the sex segregation of jobs and the sex gap in pay. Segregation and the pay gap have multiple causes, including factors on the "supply side"—the characteristics of employed men and women—and the "demand side"—the behavior of employers.

The major supply-side factor contributing to segregation is the sex-role socialization of children. Observing the segregation in the adult job world provides children with cues as to what jobs are appropriate for their gender. Yet, childhood socialization is not immutable; an unprecedented number of women entering the labor force in the 1970s went into traditionally male professions, despite their upbringing in the very traditional era of the 1950s.

Patterns of investment in human capital explain very little of the segregation we observe in jobs. Employed women have completed as many years of education as men, on average. Women do have fewer years of job experience than men, but this cannot explain segregation; there is extensive segregation in entry-level positions where neither men nor women have any experience, and women who have nearly continuous employment histories are no less apt to be in traditionally female jobs than other women.

Segregation is perpetuated on the demand side by discrimination in hiring, placement, and promotion. Although discrimination has undoubtedly decreased, evidence from surveys of managers shows that discriminatory attitudes toward women in nontraditional jobs are still prevalent. Managers were more apt to offer a demanding job to a hypothetical applicant if the application carried a male name. Managers also report that they generally see men as more able than women to analyze problems and manage.

Mobility ladders are another demand-side factor that perpetuates segregation. Most firms have mobility ladders linking sets of jobs. It is hard to cross from one ladder to another. Thus, once segregation occurs in entry-level jobs, it is usually perpetuated.

Turning to explaining the sex gap in earnings, I pointed out that most of this gap comes from women's concentration in lower paying jobs, not from men and women in the same jobs getting different pay. Thus, the explanations offered above for segregation also explain the sex gap in pay. Two additional factors affect the sex gap in pay.

The fact that women have accumulated less job experience than men explains a portion of the pay gap. Length of tenure on one's current job is particularly important. Yet, the study with the most exhaustive measures of human capital only explained 44 percent of the sex gap in wages between white men and women with these factors.

A final demand-side factor influencing the sex gap in pay is the sort of wage discrimination at issue in "comparable worth." There is evidence that employers have taken the gender of people doing jobs into account in setting wages, giving lower wages to women's work than is commensurate with the skill and training requirements of the jobs. What we call "market wages" reflects this discrimination.

Abstract of "Comparable Worth at Odds with American Realities" by Brigitte Berger

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The argument is made in this paper that comparable worth is at odds with American realities. Comparable worth advocates in their narrowly defined focus on earnings factors alone take the very complex phenomenon of female work out of the larger context of social meanings and practices in which it is embedded.

Rather than viewing the persistent earnings gap between men and women resulting from a discrimination against predominantly female-held occupations by the labor market, it is argued that the comparable worth notion falls prey to an exaggerated ideology of work: it disregards the fact that women *choose* careers and to work in what has come to be known as typical female occupations, as these allow for a reconciliation between their larger life plans, in which commitments to children, husbands, and a family life are paramount, and paid work, which is largely an economic necessity for many.

A more careful review of recent data and literature on women's commitments, priorities, and values supports the argument, to my mind convincingly, that women are drawn to occupations and careers that are flexible enough to permit easy exit and reentry, part-time and flexitime work, and that, in general, provide in a felicitous manner for a reconciliation between the world of the family and the world of work.

It is further argued that the yet-to-be-established job evaluation model favored by comparable worth activists--aside from resting on faulty premises to begin with—instead of removing gender discrimination is likely to result in discrimination against that large portion of manual and services jobs that are the only opportunity for a substantial portion of American men *and women* to make a living. Thus, instead of removing an imagined discrimination, comparable worth is likely to function as a vehicle for the introduction of real discrimination.

The argument is in strong support of the legislative acts of the 1960s (the Equal Pay Act of 1963 and Title VII of the Civil Rights Act of 1964) as the most effective and just means for the removal of historical discrimination against women in the labor market.

Abstract of "Comparable Worth: A Practitioner's View" by Alvin O. Bellak

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The doctrine of comparable worth is most commonly defined as calling for equal pay for males and females doing work requiring comparable skill, effort, and responsibility under similar working conditions. Those seeking to implement the doctrine have concluded that they must install a single job evaluation system throughout the entire organization and then develop a single pay structure to parallel the evaluations in order to meet the spirit and the letter of the doctrine and, in 19 States, the law.

We have serious concerns about both aspects of the implementation plan: (1) for a job evaluation system to work successfully, it must have a design, a process, and an output that are credible to those affected by it; (2) the various segments of a large and diverse public or private organization can reasonably argue that their jobs are substantially different from those in other segments and that compensable factors and/or weightings suitable for one segment would be unsuitable for another; (3) imposing a single job evaluation system on all organizational segments, as seemingly mandated by the State laws, is certain to bring on legal challenges to the validity of the system; (4) we do not believe that any job evaluation technology now in existence, or foreseen, *can prove to a legal certainty* that one job has *absolutely* greater, lesser, or the same value as another markedly different job, and (5) job evaluation is a workable and useful process that can be applied successfully across organizational segments and to very different kinds of jobs only when the methodology is conceptually sound, the application disciplined, and the parties involved committed to achieving consensus.

If there were a universal and absolute job evaluation system, and one surveyed the market for the "going rate" for "X points," one would find a very wide range of such rates because the labor market is highly differentiated by job function (e.g., engineering vs. accounting, secretarial vs. craft); by geography (large cost-of-living differences across the country significantly affect pay levels); by business sector (banks, high-tech companies, and steel companies have strikingly different pay structures); by supply-demand balances (shortage of system analysts, excess of steelworkers); etc. Following the doctrine of comparable worth would require an organization to pay all segments at the highest level that it pays any segment, thereby overriding the labor market for most of its jobs.

Overall, we are concerned that in our haste to address the issue of the fairness of pay for female employees, we are passing comparable worth laws that, as written, are likely to create a host of serious new problems with unintended consequences.

Abstract of "Using Job Evaluation to Obtain Pay Equity" by Donald P. Schwab

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This paper begins with an examination of the way advocates and critics of comparable worth define equity and worth in the context of pay differentials. Critics largely accept wages obtained from the external market as the appropriate basis for differentiating among jobs. Advocates, alternatively, largely reject market differentials because they observe a substantial gender-related differential in the market that they conclude is partly the result of discrimination. Advocates have suggested, as an alternative, differentiating among jobs on the basis of compensable factors typically found in job evaluation systems.

The paper then describes current job evaluation practice in the private sector. This description shows that firms use job evaluation only for those jobs that have no obvious external market and as a mechanism for dealing administratively with conflicts that arise between internal and external markets. External market wages serve as the criterion for the achievement of these objectives.

Finally, the paper discusses how job evaluation might be used to provide results satisfactory to both advocates and critics of comparable worth. Emphasis in this discussion is on how market wages might be corrected for discrimination, if discrimination exists.

Abstract of "Comparable Worth and Realistic Wage Setting" by Herbert R. Northrup

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Comparable worth is a slogan that has apparently captured the imagination of many people as a means of equalizing the incomes of women and men. Unfortunately, slogans are not self-executing, especially when they run into economic realities. In fact, comparable worth is an ill-defined concept that means many things to many people; for most it makes assumptions that are untenable; for others it promises results that are unachievable; and above all, it would fundamentally alter our employee relations system by requiring a huge bureaucracy to administer and by turning wage setting over to equal employment commission administrators and judges—surely among the most unqualified to handle such problems.

Comparable worth, as defined here, relates jobs that are dissimilar in content—for example, the office worker and the craftsman—and purports to demonstrate that if such jobs are of equal value to the employer, or society, then such dissimilar jobs should be equally compensated.

Wage and salary administration is not done in isolation from other aspects of personnel administration. Companies must not only determine how to compensate personnel, but equally important, to devise on-the-job training systems. If persons are to be trained to learn greater skills and to accept more responsibility, their compensation must be related to and reflect greater responsibility as they move up the occupational ladder.

This is necessary, again because the wage structure and the upgrading structure must synchronize—wage rewards must be available to provide the incentive for training and the assumption of greater responsibility if the system is to work and productivity is to improve.

Job evaluation and wage classification schemes rationalize the internal wage relationships. They do not set wages. Rather, wage rates or brackets must be assigned to the various classifications. The rates are determined by the employer or by collective bargaining, with, of course, the market as the guiding force. What the classification scheme does is to provide that the lowest rated jobs receive the lowest wage; those at the top, the highest wage; and that the wage system for the work force is in line with the classification scheme.

It is also clear that the comparable worth theory would greatly raise the wage level. Jobs reevaluated down, if any, by the comparable worth criteria would at most be red circled, with the attendant problems of dissatisfaction with different pay for different work. Jobs reevaluated up would be raised. This would not only cause an increase in costs in itself, but would surely trigger demands from related groups who did not receive increases for upward adjustments or from union officials ready to whipsaw the wage system upward. In turn, this would mean not only additional costs, but considerably more labor strife as managements and unions attempt to settle difficult problems without the benefits of agreed-upon job criteria or a jointly settled plan.

Perhaps the most pernicious aspect of the comparable worth theory is that it would establish a government agency as the final arbiter of wages. The National War Labor Board of World War II found itself overburdened by individual wage disputes and gave job evaluation enormous impetus as a means of returning the task to the parties, who the Board's public, industry, and labor members believed were best qualified to handle it. The wisdom of the WLB's policies has become apparent, because job evaluation as such is no longer a contentious union-management issue. Moreover, experience has demonstrated that settlement by the parties of such issues is far better in terms of lasting results than determination by third parties. This is true even if the arbitrator is the clear choice of the parties because only the parties must live with and make work the determination that results.

Abstract of "Identifying Wage Discrimination and Implementing Pay Equity Adjustments" by Ronnie J. Steinberg

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Comparable worth policy is directed at closing that portion of the wage gap due to the systematic undervaluation of work done by women and minorities. This paper draws on the New York State comparable pay study to explore the technical considerations of comparable worth policy development. It provides an overview of the cultural assumptions and institutional mechanisms that contribute to wage inequities. These assumptions have reinforced occupational segregation that has been found to be the major cause of sex- and race-based wage inequities. These values about women's work have influenced the policies and procedures of personnel systems, such as classification and compensation systems. They are embedded in job content and job evaluation techniques as well, which define job worth for the employer and allocate jobs over the firm's wage structure.

Second, it explores, concretely, how evaluation techniques perpetuate existing wage inequities in job classification systems. Since techniques articulate the values operating in labor markets, they include assumptions about the value of activities performed by women and minorities. As a result, inequities occur because: (1) different standards of worth are applied to women's and men's jobs, and (2) compensable characteristics of women's and minorities' jobs are ignored, forgotten, or overlooked.

Third, to correct this gender inequity, job evaluation methodologies must be modified to minimize the impact of cultural biases. This demands that only one standard of worth be applied to all jobs and that job factors be redefined to encompass previously unacknowledged dimensions of work found in historically female jobs.

The paper continues with technical criticisms of job evaluation methodology. These are grouped into three categories: (1) sex bias, (2) problems of measurement in data collection, and (3) the technical problems with market-based pay equity adjustments. The methodological approach of the New York State comparable pay study is described and assessed in light of these technical concerns.

The New York State study uses a net policy-capturing approach. Our current design involves administering a structured questionnaire to over 15,000 employees in over 3,500 job titles across the State. We will analyze it statistically by developing a compensation model for the New York government employment system. Specifically, we will statistically adjust this model to remove the impact of what we call "femaleness" and "minorityness." *Sex bias* has been minimized through: (1) sensitivity to job content characteristics of female and minority work, (2) use of incumbent responses to questionnaires as the basis for developing factors and factor weightings, and (3) computer-based statistical analysis. *Measurement problems* have been minimized using such procedures as stratified random sampling of incumbents by job title and the use of statistical procedures to reduce factor redundancy. The study does not expect to use an unadjusted market-line model as a basis for predicting for wages, but does plan to examine the data with three suggested adjustment models.

Finally, the implementation of pay equity adjustments is discussed. There has been considerable opposition to comparable worth primarily because many feel the cost of such implementation is prohibitive. However, it is possible to implement such pay equity adjustments in a fiscally responsible fashion. The New York State comparable pay study includes an economic forecasting component to allow flexibility in the implementation process.

Abstract of "Overview of Pay Initiatives, 1974–1984" by Nina Rothchild

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This overview serves as a reference on significant pay equity initiatives undertaken in the past decade in the United States. It includes a chronology of pay equity activities from 1974 to the present, a case study of activity in the State of Minnesota from 1979 to the present, and some general conclusions based on this decade of experience with the issue. An appendix lists States and local jurisdictions that have undertaken pay equity efforts.

Most pay equity initiatives have focused on public sector employees. However, fair employment practices laws and other mechanisms may soon extend pay equity to parts of the private sector.

The basic principles of pay equity are simple. Sex-based wage discrimination is against the law. Pay equity is a method of uncovering and eliminating this form of discrimination.

Policymakers are turning their attention away from the question of whether pay equity is a valid issue to the question of how, and how quickly, to ensure proper implementation. Minnesota's experience shows that this process can be orderly and cooperative, and that the cost of implementation is minimal—about 4 percent of total State payroll. Efforts undertaken promptly and in good faith are likely to cost less than those undertaken as a result of lawsuits.

Abstract of "Race— and Sex-Based Wage Discrimination Is Illegal" by Winn Newman and Christine Owens

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The thesis of the paper is that all sex-based wage discrimination, like race-based wage discrimination, is unlawful. The Supreme Court's decision in *County of Washington v. Gunther* makes clear that the scope of Title VII is not limited by the Equal Pay Act's equal work requirements. Thus, employers violate Title VII whenever they pay women lower wages than men because of sex. It is simply irrelevant whether the women's jobs are identical to or different from those of the men. Comparable worth is merely a euphemism with no legal significance. The question is one of wage discrimination, a garden variety Title VII issue.

The paper discusses Title VII wage discrimination cases under both the disparate treatment and disparate impact theories. This discussion of the cases reveals that standard Title VII analysis and proof applies to wage discrimination claims. Special emphasis is placed on the recent decision in *AFSCME v. State of Washington.*

Finally, the paper addresses two of the major objections to ending wage discrimination, i.e., that wages are determined by the "market" and that the "costs" of correcting discrimination are too substantial for society to bear. The paper points out that, in fact, wages are *not* determined by the "law of supply and demand." Moreover, to the extent the market does play a role in wage setting, it unlawfully perpetuates sex and race discrimination, in contravention of Title VII's requirements and broad remedial purposes. And finally, the paper concludes that the "cost" argument has no substance, having been flatly rejected by Congress and the courts.

The paper ends by stessing the recent findings of the House Committee on Operations, that the executive branch agencies have failed to carry out their law enforcement responsibilities in the area of sex-based wage discrimination. The paper calls upon the Civil Rights Commission to carry out its mandate to secure vigorous law enforcement on behalf of the victims of discrimination, including sex- and race-based wage discrimination.

Abstract of "Comparable Worth: Legal Perspectives and Precedents" by Robert E. Williams

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Title VII and the Equal Pay Act were designed to protect women and minority workers against discrimination in compensation without unnecessarily disrupting the economic mechanisms through which wage rates have traditionally been established in this country.

Existing law requires equal pay for equal work, prohibits job segregation, and bars practices designed to restrict or downgrade pay for certain classifications of workers because of their race or sex. The debate today concerns whether these substantial legal protections are sufficient to assure "pay equity," or whether the law should be expanded to require that compensation be based on "comparable worth"—that is, to require that pay rates be proportional to the intrinsic "worth" of jobs, as measured on some common scale.

The Supreme Court's 1981 decision in the *Gunther* case opened the door to judicial consideration of sex-based pay discrimination claims involving cross-occupational wage disparities, but the Court did not endorse the comparable worth doctrine. To the contrary, it strongly intimated that Title VII limits such claims to instances involving intentional discrimination.

Since *Gunther,* most of the lower courts that have considered the comparable worth doctrine have rejected it, often with expressions of skepticism about the "subjectivity" and "abstract" nature of efforts to measure and compare the worth of different jobs. Moreover, most courts have recognized the legitimacy of considering labor market factors in setting pay levels for different jobs. Various issues relating to the nature and burdens of proof in pay discrimination cases under Title VII remain unresolved, but it appears that most courts are recognizing the mode of analysis spelled out by the Supreme Court for use in cases of alleged discriminatory treatment as the appropriate formula for evaluating such claims.

Although the courts, for the most part, have thus shown common sense in resolving pay discrimination issues within the framework of existing laws, the district court's decision in ***AFSCME v. State of Washington*** stands out as a glaring exception. The court in that case disavowed reliance on the comparable worth theory, but its findings of discrimination were based in substantial part on its belief that the employer, having conducted its own self-styled comparable worth job evaluation study, was legally obliged to replace its market-based wage scales "right now" with wage scales based on the results of the study. As such, the decision is in conflict with numerous court decisions rejecting comparable worth and approving reliance on the market.

The goal of pay equity does not require expansion of existing legal protections to incorporate the doctrine of comparable worth. Effective enforcement of Title VII and the Equal Pay Act, as currently interpreted by the vast majority of courts, will assure pay equity in a very real sense, without requiring radical changes in traditional compensation practices or threatening the massive economic disruptions that a legal mandate for comparable worth could produce.

Abstract of "Pay Equity Is a Necessary Remedy for Wage Discrimination" by Joy Ann Grune

Pay equity is a necessary remedy for wage discrimination that is created when an employer depresses wages for entire job classifications because of the sex of the overwhelming majority of occupants. The objective of pay equity is to increase wages for these jobs to match wages for similarly valued, male-dominated jobs. When race or ethnicity are bases for this type of discrimination, the principle of pay equity can also be applied.

Equal pay for equal work and the elimination of discrimination in hiring and promotion are complements to pay equity, but not substitutes. The requirement of equal pay for equal work cannot be applied to the wage discrimination experienced by most working women because they hold jobs different from the jobs held by men. Affirmative action programs are important, but their existence in a workplace does not transform an illegal act of wage discrimination into a legal one. Pay equity is necessary because it is a direct and deliberate challenge to wage bias involving comparable jobs.

Fallacies about how the market operates have led to erroneous conclusions concerning the possibilities and effects of pay equity vis-a-vis the economy. Pay equity does not require that wages be determined outside of a market economy, but that bias be removed from all components of wage setting, including the market. Few employers rely exclusively on market forces. Job evaluation systems and subjective judgments, for example, are often used. There is latitude in how employers set wages, and this is too often exercised to the disadvantage of women and minorities.

There are no sound national estimates of the total cost of achieving pay equity. As employers complete pay equity job evaluation studies and begin to implement pay equity, individual workplace estimates are becoming available. In Minnesota pay equity for State workers will cost 4 percent of the State payroll budget. The fiscally responsible route for employers is voluntary compliance. This avoids expensive court battles and backpay awards. It allows employers to control and plan for orderly implementation.

The 1964 Civil Rights Act forbids wage discrimination when the jobs involved are comparable and when they are equal. Since the Equal Employment Opportunity Commission has not fully enforced this law, Congress and private citizens and organizations are taking actions. State and local governments have been the most productive arenas for pay equity action. This building momentum and the favorable court decision in *AFSCME v. Washington State* are causing attention to focus more intensively on the need for strict Federal enforcement.

Abstract of "An Argument Against Comparable Worth" by June O'Neill

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The policy of comparable worth rejects a market system where wages are set by supply and demand and seeks to substitute an administered wage system, where pay in different occupations would be based on evaluations of intrinsic worth made by politically chosen groups. This would be a radical departure from the economic system we now have. Moreover, if implemented, it would lock women into traditional women's occupations and, in the long run, would work to their disadvantage.

The main points made in this paper are as follows:

(1) The concept of comparable worth rests on a misunderstanding of the role of wages and prices in the economy. The market processes the supply of millions of individuals with diverse skills, talents, and tastes, and the demands of business and consumers, in arriving at the wage structure. The wage pattern that is the net outcome of these forces need not conform to independent judgments based on preconceived notions of comparability or of relative worthiness.

(2) The premises on which a comparable worth policy is based reflect a misconception about the reasons why women and men are in different occupations and have different earnings. Both the occupational differences and the pay gap to a large extent are the result of differences in the roles of women and men in the family and the effects these role differences have on the accumulation of skills and other job choices that affect pay. Discrimination by employers may account for some of the occupational differences, but it does not, as comparable worth advocates claim, lower wages directly in women's occupations.

(3) Comparable worth, if implemented, would lead to capricious wage differentials, resulting in shortages and surpluses of workers in different occupations. Women in occupations receiving comparable worth raises (above the market rate) would experience unemployment, and those with less experience and poorer credentials would be particularly vulnerable. Moreover, the lower wages in traditionally male occupations would discourage women from seeking to enter these fields.

(4) Policies are available that can be better targeted than comparable worth on any existing discriminatory or other barriers. These policies include the equal employment and pay legislation now on the books.

Abstract of "Comparable Worth as Civil Rights Policy: Potentials for Disaster"
by Jeremy Rabkin

Reasoning from the logic of comparable worth proposals, as well as from past experience with analogous civil rights programs, this paper draws attention to three overwhelming problems that are likely to confront administrators of comparable worth regulation.

First, the difficulty of limiting jurisdiction to a manageable scale: it will be very difficult to limit the reach of such a program to public employment; very difficult to limit its reach to (alleged) pay inequities affecting women, as opposed to racial and ethnic minorities (and ultimately white males); very difficult to limit its reach to job categories in which particular protected classes actually predominate.

Second, the difficulty of establishing clear objectives and related operational norms: it will be very difficult to resolve policy choices between establishing neutral "worth" norms and helping "protected classes," between helping women and helping other groups, between "desegregating" job categories and helping protected groups, between increasing pay and maintaining employment, etc. The enforcement agency is likely to respond to these painful choices with an ambiguous and, therefore, ineffectual series of patchwork compromises.

Third, the difficulty posed by the political climate: it will be very hard for comparable worth regulation to avoid antagonizing most workers and employers, while at the same time increasing the resentment of its supporters as their ambitions for the program are disappointed by its inevitable limitations in practice.

In all, it is suggested, the difficulties facing such a program may well be prohibitive.

Abstract of "The Employment and Earnings of Women: The Comparable Worth Debate" by Ray Marshall and Beth Paulin

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The increased labor force participation of women has created tensions between the fact that women have become permanent, integral components of the work force and the earlier assumption that women were temporary, peripheral, and inferior participants not "suited" for many "men's" jobs. Two facts stand out in analyses of women's employment patterns: at the beginning of the 1980s, full-time women workers earned only about 60 percent as much as full-time men workers, and 80 percent of women workers were concentrated in occupations where women constituted 70 percent or more of the work forces. Women, therefore, have been concentrated in certain jobs on the basis of overt and institutional discrimination.

The so-called "pay equity" or "comparable worth" issue concerns the pay rates assigned to jobs where women are concentrated: it contends that those jobs are paid less than comparable jobs where men predominate *partly* because of discrimination against women.

The arguments against comparable worth may be summarized as follows:

(1) Wage differentials are based on the forces of demand and supply, not discrimination. The response is that the forces of demand and supply do not operate with sufficient precision, especially in the internal labor market (which is relevant to comparable worth), to avoid discrimination. This is particularly true of public employees, where most of the comparable worth cases have arisen. Moreover, the use of private sector wage surveys is inadequate because the evidence suggests that there is more discrimination in the private than the public sector. Discrimination can be demonstrated by examining job evaluation systems in the internal labor market. These systems are inherently judgmental, but there is no effective, absolute, mathematical way to determine wages that would avoid judgment.

(2) It is sometimes argued that comparable worth is an attempt to use the obsolete "just price" concept. The response is that "equity" is inherent in wage and salary administration, even though "human capital" and demand and supply are much more important in industrial market than preindustrial economies.

(3) The male-female wage gap is due to things other than discrimination. We agree, but most studies leave a residual not explained by "other things," suggesting room for discrimination. A variant of this argument is that women are concentrated in certain occupations by choice—not by discrimination. This argument cannot be sustained by the evidence and ignores the fact that victims adjust to discrimination. Society cannot ignore discrimination just because of these "adjustments."

(4) Comparable worth would lead to *government wage fixing*. Response: the government would not fix wages, but does have the responsibility to see to it that employers do not *discriminate* in wages assigned to jobs on bases unrelated to the value of those jobs to the employer.

(5) Acceptance of comparable worth would be highly disruptive and expensive and would create economic chaos. Response: who knows? The disruption will be directly related to discrimination that can be proved in each case. The assumptions behind the disruption argument are: (a) there is no discrimination in present arrangements, and (b) comparable worth would require jobs where women predominate to be paid more than they are worth. Response: comparable worth advocates believe there is discrimination and propose paying those jobs what they are worth, not more. Of course, the preferred way to eliminate discrimination is negotiations by

the parties involved, but government has the ultimate responsibility to counteract employment discrimination.

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